15 1946

Doctor Sees Gain For Civil Rights

The Defender
Chicago, Ill.

WASHINGTON—Courts are becoming more liberal in their interpretation of the law in cases which involve Negroes, according to Dr. Bernard H. Nelson, a professor at Clark College, who recently made an exhaustive study of 69 cases involving the Fourteenth Amendment and the Negro since 1920.

No section of the Constitution has been the subject for as much litigation as the 14th amendment, Dr. Nelson points out. Cases tried before the U.S. Supreme Court between 1879 and 1920 show a much more narrow interpretation, he asserts, than cases tried since 1920. In the period 1920-43, 45 of the 69 decisions were favorable to the Negro.

Sat. 10-12-46

Court Rulings in '46 Historic

The Afro-American
Baltimore, Md.

Ten decisions in Federal, State and local courts, sustaining and reaffirming the civil and property rights of colored Americans were won in 1946.

Sat. 1-4-47

Three of these were historic and sweeping—the U.S. Court of Appeals (in D.C.) decision banning segregation of inter-state passengers on railroads, and outlawing of discrimination against colored firemen by the U.S. District Court at Norfolk (Va.).

The fight against racial restrictive housing covenants gained headway in a Florida Supreme Court's ruling that this practice is unconstitutional, and in a brief filed by the Attorney General of California urging the State Supreme Court to forbid enforcement which violates the 14th Amendment.

Calif. AFL Loses

The decisions and rulings were:

In February—The California Supreme Court ordered the AFL Brotherhood of Boilermakers and Iron Shipbuilders and Helpers to grant full membership rights to colored workers. This the union did in June, admitting them to regular locals on equal terms with whites.

In May—The U.S. District Court of Appeals at New Orleans reversed the lower courts, holding that citizens disfranchised by registrar in Louisiana and Alabama could appeal to Federal courts.

The Florida Supreme Court ruled unconstitutional, a restrictive housing covenant which barred non-white citizens from certain residential areas.

Bus Bias Outlined

In June — The U.S. Supreme Court ruled in the Irene Morgan case that State jim-crow laws are not applicable to inter-state bus passengers.

The Afro-American

Governor (then dean of Howard University Law School) William H. Hastie of the Virgin Islands, argued the case on its merit before the high court in April.

Ends J.C. on R.R.

In September—The U.S. Court of Appeals in District of Columbia, in two-to-one decision, banned segregation of inter-state passengers on railroads, in sweeping decision favoring the Rev. William H. Jernagin, Ralph Matthews, and William J. Scott, former AFRO photograher, appelants. Suit sponsored by AFRO-AMERICAN Newspapers.

Baltimore, Md.

Attorney General Robert W. Kenny of California filed brief in State Supreme Court urging that body to forbid State Supreme Court to enforce racial restrictive covenants which violate the 14th Amendment.

Sat. 1-4-47

Selective Service Case

In October — AFRO-sponsored suit of Robert B. Kelly Jr., 19, Washington, D.C., filed in September against Selective Service and War Department officials, when denied induction because of his race, resulted in quick action by defendants.

War Department ordered Kelly's induction, but instituted a new discriminatory requirement—that colored volunteers must prove completion of a high school education.

Tenn. Defendants Win

Florida Court found Tom A. Crews of Suwanee County (Fla.) guilty of flogging Sam A. McFadden on Sept. 21, 1945, with a pistol and cow-whip until he jumped in the Suwanee River and drowned. Crews sentenced to one year in prison and fined $1000.

All-white male jury of farmers at Lawrenceburg, Tenn., after deliberating two hours, freed 23 of 25 defendants charged with complicity in Columbia, Tenn., riot in February.

Southern Pacific Co. ordered to pay $500,000 to $750,000 to members of West Coast Dining Car Union by Federal Judge Louis E. Goodman of Los Angeles.

Fireman's Case

Judge Sterling Hutcheson, U.S. District Court, Norfolk (Va.), ruled that a railroad brotherhood has no right to enforce a collective bargaining agreement which bars a colored fireman from promotion solely because of race. (Tom Tunstall vs. Norfolk Southern Railway)

1-4-47

In December—Tavern keeper at Fairbanks, Alaska, fined $250 by the U.S. Commissioner's Court when found guilty, under the Alaska Civil Rights Statute, of refusing to serve Mrs. Beatrice Coleman, a resident of the Territory.

15a 1946

Judge Rules Against Motion To Dismiss Case

Memphis World
Memphis, Tennessee

Left Up To Higher Courts To Make Changes In Law

By BARBEE DURHAM

COLUMBUS, O.— (ANP)— The fight on restrictive covenants flared again in Columbus January 21 when Common Pleas Judge John R. King upheld the legality of such agreements when he ruled against a motion to dismiss the Old Folks Home case on the grounds that restrictive covenants are unlawful. Judge King's decision pointed out that common pleas court and the district court of appeals upheld restrictive covenants and that it is now up to a higher court to make any changes in the law.

2-8-46

This case first attracted wide attention when the Eastwood Protective association tried to prevent the Old Folks home from moving into property which it had purchased by having an injunction served. *2-8-46*

Following this, Columbus was startled when Judge Dana F. Reynolds cited two officials and the corporation, the Old Folks Home for contempt of court. E. R. Rockhold, president of the board of directors and Raymond Davis, vice-president, and the corporation were each fined $100, $75 of which was suspended.

HOME IS MOVED

According the Edmond B. Paxton and D. D. White, attorneys for the Old Folks home and Atty. Frank C. Shearer, assisting them, all of whom are donating their services, the case will soon be heard in common pleas court on its merits. The Old Folks home moved to another address Sept. 7 and its former home has since been sold.

All Columbus is watching with keen interest the fight on restrictive covenants. Civic organizations are vitally interested and particularly the Vanguard league. In November the league sponsored a large mass meeting where Atty. Theodore M. Berry of Cincinnati and Atty. Frank C. Shearer, president of the Vanguard league spoke on the general topic of restrictive covenants. *2-8-46*

The league has ordered for local distribution a large number of "Hemmed In", a pamphlet on restrictive covenants, published by The American Council on Race Relations, of Chicago. A new organization, composed of interested white persons principally has ordered 1000 of these booklets for distribution and is including with each one a mimeographed summation of the Columbus situation which its members have gotten together.

RIGHT TO BALLOT ARGUED IN COURT

Birmingham, Ala.
Age Herald

NEW ORLEANS, April 8—(AP)— Whether state machinery for registering voters is a matter of federal court judicial concern was argued here today in Louisiana and Alabama Negro voting cases before the Fifth Federal Circuit Court of Appeals. *Tue. 4-9-46*

The two appeals were from Federal District Court dismissals last Fall in the cases of Edward Hall, Reserve, La., and William Mitchell, Tuskegee, Ala., Negroes who allege that by being denied registration in their respective states they were not accorded the same status before the law as whites.

Discrimination Charged

"We are not trying to get this court to have either appellant registered," said Thurgood Marshall, New York, special counsel for the National Association for the Advancement of Colored People, in a joint argument in behalf of both Hall and Mitchell. "We are complaining against discrimination."

"The right not to be discriminated against in registration is a federal right," he asserted. "The federal courts stand as a bulwark to prevent discrimination in registration."

Attorneys for the defendant registrars argued that registration of voters is an administrative and not a judicial matter, and that Hall and Mitchell did not exhaust their state means for relief before entering federal court.

Richard T. Rives, Montgomery, Ala., representing Mrs. George C. Wright, et al., registrar of voters at Tuskegee, held that the state "has gone the full length to provide fair administrative machinery and that no attack was made in the Mitchell case against the fairness of the machinery. *Tue 4-9-46*

Law Is Explained

"The courts in Alabama have the authority to issue directive writs requiring registration," he said.

Frank J. Looney, Shreveport, attorney for T. J. Neagel, registrar of voters in St. John the Baptist Parish, La., said Louisiana law provides that a person denied registration has the right to go before a district court of his parish to seek relief.

He said Hall "had the right to go before court and didn't."

Hearing the arguments today were Judges Edwin R. Holmes, presiding; Leon McCord and Elmo P. Lee. After arguments they took the cases under advisement and allowed 10 days for filing additional briefs.

The courtroom seats were filled and a number of spectators crowded the aisles. The audience contained many Negroes.

Wins $4,625 Suit Against White Ala. Motorist

Chicago Defender, Ill.

BIRMINGHAM — (ANP) — A $4,625 consent judgment was entered here last week against M. G. Borland, a resident of Trussville, by Circuit Judge Leigh M. Clark in behalf of Miss Vivian Kimes, who had contended in a personal injury damage suit that she had suffered fracture of both legs on May 12, 1945, when she was struck by the white motorist while crossing a street.

Miss Kimes was represented in court by Atty. Frank L. Parsons

Alabama Court Upholds Freedom Of Speech

Chicago Defender, Ill.
3-16-46

By JOHN LeFLORE
(Defender Staff Correspondent)

MONTGOMERY, Ala.—A Circuit Court move which threatened to imperil the principles of freedom of speech was overruled by the Alabama Court of Appeals last week.

Judge Robert B. Harwood of the tribunal ordered the release of Alfred Murray, 26-year-old Negro laundry worker, held on a threat charge under a $1,500 peace bond by Judge Eugene W. Carter of the Montgomery County Circuit and Common Pleas Court.

Judge Carter had previously denied a writ of habeas corpus sought by Murray to effect his freedom. *Saturday*

No Reason For Violence

Prior to the beginning of a still existing two-month-old laundry strike, Murray is alleged to have remarked to Louis Riggins, another laundry worker, that he would get his head "blowed off" if he attempted to work on the day set for the strike.

The strike is said to involve 412 laundry workers seeking a decent wage and better working conditions. It began on Jan. 7. To date no settlement has been reached. Weekly salaries at the time of work stoppage were from $7 to $9 per week, a strike representative said. The workers are asking for a weekly wage of $16.

Bond Reduced

Judge Carter had set Murray's original bond at $3,000 but reduced it to $1,500 at the habeas corpus hearing. The laundry worker remained in jail in default of the bond because Negroes who had the means to aid him refused to lend their support in his behalf. *3-16-46*

The Montgomery NAACP employed Atty. H. Foster, white, to institute the proceedings, which finally led to the worker's release.

Judge Harwood said that the evidence showed that Murray and Riggins had been friends for several years, and that some time later in the day after the remark was made, the men were seen together at a beer parlor, apparently on the friendliest of terms.

The court continued: "The facts do not spell out a just reason for fear or commission of violence."

Free Expression Threatened

The opinion further asserted "to hold that the appellant's words, under the circumstances of this case, constituted a threat would in our opinion establish a precedent which would make dangerous free expression and subject all citizens to possible harassment never contemplated by our statutes and Constitution." *3-16-46*

Riggins had testified in the Court of Common Pleas that Murray had told him, "You'll get your head blowed off" if he tried to work on the initial day of the walk-out.

Four of Montgomery's largest laundries are affected by the strike.

Judge Orders Law School No Makeshift

The Informer
Houston, Texas
Sat. 6-22-46

By THUR DeWITTY

AUSTIN.—"I see no use of arguing this question further, but I hereby enjoin T. S. Painter, the board of regents and others to admit Heman Sweatt to the University of Texas," Judge Roy C. Archer ruled in the 126th district court Monday afternoon. After a pause, the judge continued, "I'm doubtful of my authority in this case to make such a ruling, but I will suspend the order or writ for six months giving the board and so on time to prepare a law course substantially equivalent to the law school at the University of Texas. If it is not done, at that time I shall issue a writ." The judge concluded his decision with a warning, "We don't want any makeshifts; we want something real." *6-22-46*

The hearing opened on schedule in the 126th district court on the mandamus action brought by Heman Sweatt to enter the University of Texas law school following refusal of university officials to admit him solely on grounds of his being a Negro.

When court opened at ten o'clock W. J. Durham, attorney for Mr. Sweatt, was handed a copy of the exceptions prepared by the lawyers for the university in rebuttal to the mandamus procedure. Attorney Durham requested a thirty-minute recess to examine these exceptions which purported to show that the mandamus proceedings were brought unnaturally and that it would work a hardship on Sweatt. Claims were made that Prairie View university was not a branch of the Texas A. and M. college but a university established by the 49th legislature.

Durham Challenges Legislative Act

Mr. Durham reviewed the exceptions, proving to the court that Sweatt was in his constitutional rights in filing for entrance to the University of Texas. He then challenged the constitutionality of the legislative act of the 49th legislature naming Prairie View college a university. He proved that the legislature did not set up administrative machinery to bring into being a university at Prairie View but only a university on paper.

Replying to claim that no demand had been shown prior to Mr. Sweatt's application, Mr. Durham scored the point that the state recognized that a demand existed five years ago, when money was appropriated for the Negroes to study law and other professional courses outside of the state. *6-22-46*

Sweatt, a Witness

At three o'clock, following an adjournment, Mr. Durham brought in specifications on the case and he and the state's attorney agreed on twenty-three specifications after conference.

At five o'clock, Heman Sweatt was put on the witness stand and testified that he made application at the University of Texas because that was the only place he knew to file. When Sweatt's brief testimony had been completed and he was excused, Judge Archer handed down his decision. *Sat 6-22-46*

Attorneys for Sweatt were W. J. Durham, Burkley, and Harry Bellinger. Lawyers representing the state were Carlos Ashley, W. B. Gippert, and Jackson Littleton. Attorney General Grover Sellers, who ruled that the University of Texas did not have to admit Sweatt did not participate in the trial.

ARRESTS BY CITIZENS UPHELD IN MISSISSIPPI

HAZELHURST, Miss., Nov. 18 (AP)—The right of a private citizen in Mississippi to make an arrest without a warrant was declared "sacred" and upheld by Circuit Judge J. F. Guynes in a ruling involving three white men charged with so arresting two Negroes.

The judge's action freed Justice of the Peace J. B. Bell and a private detective, Dan Goodin, both of Jackson (Hinds County) and Jim Griffith, a Copiah County Merchant, charged with aiming a gun, carrying concealed weapons, and arresting without warrant.

They had been arrested after they took into custody two Negroes while investigating a nighttime entry into the Griffith home and took the two to Lincoln County where District Attorney E. C. Barlow questioned them.

The judge said in his ruling that "this court is of the opinion that parties, under law, have a right to make a private arrest without a warrant where they have reasonable grounds and probable cause for believing a felony has been committed and they violate no law when they do so." *11-19-46*

"The right of private arrest is just as sacred and just as important to the public interest as that of arrest by an officer armed with a warrant," the court ruled.

Judge Upholds Texas U. Ban Against Law Student

The Afro-American
Baltimore, Md.

AUSTIN, Tex.—The NAACP's petition for a writ of mandemus in the case of Herman Marion Sweatt vs. the University of Texas, which refuses to admit him to the school of law, was dismissed here Dec. 19 by Judge Roy C. Archer in the District Court of Travis County. Sat. 12-28-46

Counsel for Sweatt will file an exception to the ruling in the Court of Civil Appeals for the Third Supreme Judicial District of Texas.

Judge Archer's order said: "The law school for legal training substantially equivalent to that offered at the University of Texas, has now been made available to the relator. . .(and that) writ of mandamus sought herein be in all things denied. . ."

Two days prior to this order, Judge Archer had ruled that colored students must be admitted to the university, unless a separate law course is established at Prairie View University by the beginning of the February term.

The jurist, last June 17, entered an order giving the university six months in which to establish a law school for colored students. He said at that time, that if such a school was not established, the writ of mandamus should be issued.

The State's bitter opposition to the admission of a colored student to the university's law school was highlighted when Attorney General Grover Sellers appeared personally in the crowded courtroom to file a motion urging dismissal of the NAACP's petition.

The attorney general opposed the petition despite the fact that no evidence was introduced as to whether a colored law school, "separate but equal," was or would be established.

A Vague Resolution

His motion contained a resolution by the Board of Regents of the Texas A. and M. College, authorizing establishment of a law school.

The Afro-American

This was accompanied with a statement that a law school for colored students would be established in Houston, and that "the Governor will be asked for a deficiency appropriation to provide for the cost of any instructions."

Baltimore, Md.

The attorney general's motion was immediately contested by Sweatt's atorneys, Thurgood Marshall, NAACP special counsel, W. J. Durham, James M. Nabrit Jr., C. Dunkley and Robert L. Carter, NAACP assistant counsel.

Attorney General Adamant

They argued that the only answer and justification for a separate law school for colored students was the actual establishment of a separate school completely equal, and that, unless a school was actually established and in operation, the writ of mandamus should be issued.

The assistant attorney general insisted that they were going to establish a separate law school, which statement was backed up by the attorney general, who said that he would "fight until the end of the breath in his body to maintain the system of segregation." Sat. 12-28-46

Campus Views Favorable

That the hostile attitude of some State officials is not shared by some faculty members and students was demonstrated at a mass meeting here the night of the hearing.

J. Frank Dobie, professor at the university, told a crowd of several thousand students and interested members of the community, that if the State does not set up a university equal to the University of Texas, he was in favor of admitting colored students to the State institution.

The president of the University's student body, a young veteran, said a group of students were for "Christianity, democracy, equality and justice now," adding that he wanted to correct a false impression:

"If colored students were admitted to the University of Texas, they would not be shunned and outcast. They would be my friends and would have many friends among other students. . ."

In a telephone conversation with Walter White, NAACP executive secretary, a few moments after court had adjourned, Thurgood Marshall said:

Fight to the Finish

"We shall carry on this fight to provide adequate professional education opportunities for colored students to a successful finish. It is apparent now that we are not alone—even in Texas.

"The courtroom was packed with young white Texans students of the university, who sat cross-legged on the floors and aisles cheering on the NAACP attorneys in their fight for democracy."

$12,000 IN ACCIDENT

The Call Kansas City
Mo.

BIRMINGHAM, (ANP) — Mrs. Eliza Baldwin, who was injured May 1, when a bus and truck collided, was awarded $12,000 damages by consent judgement in Jefferson County Circuit court, Monday in a suit filed jointly against the Birmingham Electric company and the National Biscuit company. Fri. 12-20-46

Mrs. Baldwin set forth in her complaint that her right leg was cut off in the accident.

3 Whites Freed In Kidnapping

Defender
Chicago, Ill

Private Arrest Of Negroes Given OK

Sat. 11-30-46

HAZELHURST, Miss. — In another Mississippi court decision apparently influenced more by the color of the plaintiffs' skin, than by impartial justice, Circuit Court Judge J. F. Guynes last week ordered that there be no prosecution of three white men who kidnapped and arrested Winfred and Sammy Williams, several weeks ago.

The decision which permits private citizens to arrest Negroes without warrants was handed down in favor of Justice of the Peace J. B. Bell, Dan Goodwin, a private detective, and J. N. Griffin, a merchant. They were charged with kidnapping, carrying concealed weapons, and assault.

Sheriff Presses Charge

Charges were instituted by Sheriff R. L. Miller of Copiah County, when the Williams brothers complained of having been taken to Hinds County by the trio against their will and being subjected to third degree questioning. Despite the fact that Griffin represents law and order in Copiah County, Griffin, who accused one of the Williams brothers of attempted burglary, called in Bell and Goodwin.

After the kidnapping, the three carried the Williams brothers to Lincoln County, where District Atty. E. C. Barlow assisted in the questioning. Later Barlow swore out a warrant on which one of the brothers was arrested. When the two men were returned to Copiah County for jailing, they complained to Sheriff Miller, who took up legal action.

Upholds State Tradition

Judge Guynes' rebuff of the seriff upholds Mississippi's tradition of a free season for the arrest of Negroes by any whites who choose to take the law into their own hands.

In making his decision, Judge Guynes said: "This court is of the opinion that parties under the law have a right to make a private arrest without a warrant where they have reasonable grounds and probable cause for believing a felony has been committed, and they violate no law when they do so.

"The right of private arrest is just as sacred and just as important to the public interest as that of the arrest by an officer armed with a warrant."

15b 1946

Cal. Supreme Court Orders Union to End Jim Crow

Afro-American, Baltimore, Md.

By STAFF CORRESPONDENT

SAN FRANCISCO, Calif.—The California State Supreme Court last week ordered the AFL International Brotherhood of Boilermakers and the Iron Shipbuilders and Helpers to grant colored workers full membership rights and strongly criticized Union discrimination against them. *2-9-46*

The ruling was in the case of Wilbert Williams, representing about 2,000 colored employees at Permanete Metals and the Kaiser Co. Shipyards in Richmond, Calif.

Williams brought action against the AFL International Brotherhood of Boilermakers and Iron compel colored to join an auxiliary local, with inferior membership rights. It reversed a ruling made by the late Superior Judge Mullins of San Francisco.

The second reversed a ruling by Shipbuilders and Helpers of America, contending that members of his race were discriminated against by being required to join an Auxiliary Union without voting and other privileges.

2 Decisions Reversed

Two unanimous opinions written by Chief Justice Phil Gibson reversing Superior Court decisions, were also issued the same day by the court.

One ordered the AFL Boilermakers' Union to show cause why a preliminary injunction should not be issued forbidding it to Superior Judge Edward J. Decoto of Alameda County in an action brought by Raymond Thompson, employed by Moore Drydock Company.

Thompson had sought to restrain the company from assisting the Union in barring colored workers, and Judge Decoto ruled in favor of the company in May, 1944. *2-9-46*

In remanding the case to the lower court, the supreme court said: "The Union above was subject to the charge of contempt. Denying membership in a union by reason of race, color or creed is a violation of the 14th Amendment to the Constitution.

Justice Gibson pointed out that there cannot be both a closed shop and a closed Union, and stated that the Union had assumed a sovereignty to which it was not, under law entitled

Death Sentence Set Aside By Ala. High Court

Atlanta, Ga. Daily World

MONTGOMERY, Ala. (SNS)—The Alabama Supreme Court January 24 set aside the death sentence in the conviction of Johnnie B. Smith, of Tuscaloosa, Alabama, charged with criminal rape, because the prosecutor made the defendant testify against himself. *1-30-46*

Justice A. B. Foster in his opinion said that during the trial the prosecutor on several occasions told Smith to stand so that the witnesses could "see him better for the purpose of identification." Justice Foster said that this violated the defendant's constitutional right not to be compelled to be a witness against himself.

Court Voids Miami Zoning To Ban Negroes

Courier-Journal, Louisville, Ky. 5-1-46

Tallahassee, Fla., April 30 (UP)—The Florida Supreme Court unanimously ruled today that Dade County had no authority to enact zoning laws excluding Negroes from living in any section of Miami.

The court upheld a Dade Circuit Court decision releasing two Negro families arrested for violation of County zoning regulations. The regulations called for racial segregation. *Wed.*

It had been cointended by the County that it derived authority from a 1937 legislative act to exclude Negroes from any section it chose. *5-1-46*

Rights Under Law Specified.

Without passing on the validity of such a statute, the Supreme Court said the 1937 act gave the Dade Board of County Commissioners specifically the power to regulate and restrict the height and number of buildings, lot sizes, population density and the number of junkyards and trailer areas in zoned areas.

The County, after studying the act, adopted a resolution segregating areas which could be occupied by Negroes and whites.

Two Negro families bought property in white areas and took up residence. They were arrested and brought suit challenging the ordinance.

CALIF. COUPLE WINS JC SUIT AFTER TWO YEARS

Afro-American, Baltimore, Sat.

LOS ANGELES (ANP)—Mr. and Mrs. Richard Pritchard of La Jella, Calif., who sued a San Diego cafe for $7,500 2 years ago for refusing to serve them, were recently awarded $250 each by the San Diego superior court. *5-18-46*

Must Provide Equal Education or Admit Vet to Law Course

Pittsburgh Courier, Pa. 3-23-46 Saturday

AUSTIN, Tex.—Deep in the heart of Texas, where democracy does not work, Attorney General Grover Sellers gave Negroes another sound rebuff in their gallant fight for first-class citizenship when he ruled last week that the University of Texas could refuse admittance to Heman M. Sweatt of Houston, who applied for entrance to that institution last month.

Sweatt, backed by a committee, told the university registrar he desired to take a law course and no Negro schools in Texas provide such training. This was the first instance where a Negro has sought to enter the "lily-white" university, and acting president, T. S. Painter, immediately asked the Attorney General for an opinion.

PRAIRIE VIEW MUST PROVIDE TRAINING

Sellers held that while the University would refuse to admit the Negro, it was mandatory that the State-owned Negro University at Prairie View provide law or any other kind of training for any Negro who demands it upon "reasonable notice."

In case the kind of course he seeks is refused at Prairie View, then the University of Texas must admit him, the ruling said.

The Attorney General ruled however, that it was not required that the State maintain in idleness facilities at Prairie View to teach law, medicine, etc., to Negroes. However, as soon as there is a demand for any course, and one student's request constitutes a demand, the Negro College must install the facilities or else the Negro is entitled to attend the University of Texas.

Sweatt sought entrance to the university under the Supreme Court ruling in the Gaines case (University of Missouri), in which the Court held that it was unquestionably the duty of the State to provide equal educational advantages within the State, and that if such was not done it would constitute a discrimination in violation of the Constitution of the United States.

Sellers further stated that the decision held that establishment of equal educational advantages could not be left to the discretion of any board when necessary and practicable in their opinion, but must be mandatory upon demand.

LEGISLATURE PASSES STATUTE *Sat*

The last Legislature, in view of the Missouri decision, pushed through a statute providing that whenever there was any demand, the board of directors of A.&M. College, a branch of the University was authorized to provide for establishment of courses in law, medicine, engineering, pharmacy, journalism, or any other generally recognized course taught at the University of Texas, in Prairie View University, and these courses should be substantially equivalent to those offered at the University of Texas.

EDITORIAL BLASTS SET-UP

In light of the ruling in the Sweatt case, a recent newspaper editorial blasted the educational set-up at Prairie View University.

"Dr. E. B. Evans will become 'principal' of Prairie View University in September. And whoever heard of the 'principal' of a university? Regardless of Dr. Evans' abilities and fitness, the Negroes of Texas should be made aware of what has happened to them," says the editorial.

"The person who heads Prairie View is deprived of the dignity accorded the head of every other Negro State institution of college level in the United States. The 'president' of Prairie View is the president of A.&M. College — Gib Gilchrist. This circumstance makes of Texas Negroes the laughingstock among colleges of the country.

HAS NO BOARD OF DIRECTORS *Sat*

"... Prairie View has no board of directors. The board of directors of A.&M. College has a Prairie View 'committee.' They decide upon personnel, budget and the curriculum of Prairie View. Negroes of Texas have no voice in who shall teach their children, what their children shall be taught, and what facilities shall be provided for the instruction of their children.

PRAIRIE VIEW GETS $2,000,000 BUDGET *3-23-46*

"... the budget of Prairie View for the next biennium is nearly two million dollars. The last budget was $851,000 for two years. This new budget calls for nearly a million each year. The scare of Heman Sweatt deserves some of the credit for that sum being approved ...

"... The budget for A.&M. College, alone, for these same two years is $15,000,000. A.&M. College is only one of the seventeen schools of higher learning for white youth of Texas."

Texas, in the past, has been getting around the Constitutional provision giving equality of privileges to citizens by sending Texas Negroes to schools in Northern States, and paying their tuition.

Under the Missouri ruling, however, the State must provide these educational facilities within the State.

N.Y. Supreme Court Drops Theatre Case

Defender, Chicago, Illinois

NEW YORK—Uncle Tom took a beating here this week at the hands of the U. S. Supreme Court.

Dismissed by Justice Charles B. McLaughlin was the $100,000 suit brought by Reed Lawton, president of the American Civic Opera Company, against the NAACP, Philip Murray, president of the CIO and William Z. Foster, chairman of the Communist Party. *Sat. 4-13-46*

Lawton instituted suit for damages when his adaption of Harriet Beecher Stowe's celebrated slave novel, "Uncle Tom's Cabin," was banned in Bridgeport, Conn., as a result of protests on the part of civic-minded organizations who resented the falsification of the dynamic figure, "Uncle Tom."

Lawton figured in the news last year when police named him as a protege of Mrs. Albert E. Langford, whose husband was slain in the still unsolved Hotel Marguery murder.

Dade County, Florida, Bias Zoning Voided

Daily Worker, New York, Wed. 5-1-46

TALLAHASSEE, Fla., April 30 (UP).—The Florida Supreme Court unanimously ruled today that Dade County had no authority to enact zoning laws excluding Negroes from living in any section of Miami.

The High Court upheld a Dade Circuit Court decision releasing to Negro families arrested for violation of county zoning regulations. The regulations enforced race segregation. *5-1-46*

It had been contended by the county that it derived authority from a 1937 legislative act to exclude Negroes from any section it chose.

University Of Texas Told To Admit Negro Student

Montgomery Advertiser

AUSTIN, TEXAS, June 17.—(AP)—Judge Roy Archer in 126th District Court today granted a mandamus to Heman Marion Sweatt, Houston Negro, compelling the University of Texas to admit him as a law student, but suspended the action for six months to allow the State of Texas to establish a Negro law school. *6-18-46*

Rape Conviction In Mississippi Reversed By State High Court

Nashville, Tenn.

BIRMINGHAM — The Southern Negro Youth Congress announced today action of the Mississippi State Supreme Court in reversing the decision of a Jones County circuit court and remanding for new trial the case of Willie McGee, Negro warehouse worker accused of raping a white woman in Laurel last October.

Appeal of the lower court decision was successfully brought to the State Supreme Court last Monday by Attorney Forrest B. Jackson, leading criminal lawyer of the state. Jackson took the case last December at the behest of the South-

Dorchester Man Gets New Trial On Murder Charge

News and Courier, Charleston, S.C.

Columbia, June 25.—(AP)—The state supreme court today ordered a new trial for Ellie Simmons, negro convicted last year on a murder charge in Dorchester county and sentenced to be electrocuted, in the death of Rush Knight, a white man.

Woman wins damages for police brutality

Los Angeles Tribune, Sat.

SAN DIEGO—Mrs. Mary Coleman, of this city, was awarded $250 damages in superior court last week for a beating suffered last July at the hands of W. E. Nicholson, member of the city police force. Represented by Thomas Griffith, Jr., of Los Angeles, Mrs. Coleman had sought $7500. *5-25*

ern Negro Youth Congress after Louis E. Burnham, SNYC organizational secretary, had gone to Laurel and made an on-the-spot investigation of facts surrounding the conviction. 6-28-46

McGee was originally scheduled to be electrocuted on January 4.

Burnham's investigation showed that McGee had been brought to trial under guard of State militia, that the all-white jury had rendered a guilty verdict after two minutes of deliberation, that the court had arbitrarily denied a change of venue away from Laurel in which city a lynch spirit prevailed and in which the last lynching occurred only two years ago.

The high court reversed and remanded the case of McGee after finding the lower court should have granted him a change of venue. The court declared: "Decisions are in substantial accord throughout the country that a case prima facie for a change of venue is made out 'where it is shown that the public is so aroused against accused that it was necessary to call out the militia or otherwise protect him from violence or to remove him from the county.'"

Albert Easterling, county attorney for Jones county responded to the decision by announcing he would file a motion to return McGee to the Laurel jail from the Hinds County (Jackson) jail in which the prisoner has been held for safe keeping since October. The Youth Congress and the Civil Rights Congress, which has been associated with the SNYC in retaining counsel, declared that the defence would insist on McGee's remaining in Jackson and on strict observance of due process in the retrial. Friday 6-28-46

Death Sentence Upheld By Court

The Advertiser
Montgomery, Ala.
Fri. 10-11-46

The State Supreme Court yesterday upheld the death sentence imposed by a Etowah County trial jury on a 22-year-old Negro whose mother claims to have had 27 other children.

The court fixed Dec. 13 as the date for the electrocution of Lawrence Nathaniel Phillips, convicted of killing a Gadsden laundryman, Henry Louie, in April, 1945. Justice Joel B. Brown dissented on the opinion upholding the Etowah Court and said in his opinion he thought the case should be returned for another hearing.

Testifying during the trial, Phillips' mother said he was one of 28 children.

Digest of Kansas Supreme Court Decision on Unions

The Call
Kansas City, Mo.

The full text of the syllabus by the Kansas Supreme court forbidding racial discrimination in labor unions follows:

No. 36,483

Lucillous Betts et al., Appellants,

vs.

G. G. Easley, et al., Appellees

SYLLABUS BY THE COURT

1. A primary purpose of the Railway Labor act, enacted by Congress in the exercise of its power to regulate interstate commerce, was to avoid interruptions of commerce, by promoting the orderly and peaceful settlement of labor disputes affecting railroads.

2. The Railway Labor act firmly established labor's right of collective bargaining through representatives freely chosen by the employes in classified crafts or groups, without intereference or coercion. Friday 6-14-46

3. The person, labor union or other organization chosen as the statutory representative of railway employes to negotiate with the carrier as to wages, hours, or employment, working conditions and other such matters, becomes thereby the sole and exclusive collective bargaining agent and no minority group within the classified employes involved has the right to be specially represented in such negotiations. 6-14-46

4. In performing its functions as such statutory bargaining agent, a labor union or other organization is not to be regarded as a wholly private association or individuals free from all constitutional or statutory restraints to which public agencies are subjected. Kansas City, Mo.

5. The Railway Labor act imposes upon the statutory representative of a classified craft or group the duty to protect equally the interests of those whom it represents and not to discriminate arbitrarily against any such employes in matters affecting substantial rights.

6. A discrimination by such statutory representatives against employes because of race or color in matters within the purview of the act, is arbitrary and unlawful. Call

7. The fact that membership in a labor union selected as statutory agent for collective bargaining is voluntary and not compulsory, does not relieve such agent from according equal privileges of participation and representation to all employes whom it represents in matters within the purview of the act.

8. The fact that they had participated in the election at which a collective bargaining representative was chosen, does not stop employes affected from asserting their right to such equal privileges of participation and representation. Kansas City, Mo.

9. In an action by Negro workmen, employed in the railroad shops of an interstate carrier, to enjoin the continuance of alleged discriminatory acts by the officers of a labor union which had been selected, under the Railway Labor act, as the collective bargaining agent of the employes involved, the plaintiffs alleged that they are denied privileges or participation and representation equal to those accorded to white employes in matters within the purview of the act; that the constitution of the union provides that Negro employes may only be admitted to membership in "separate lodges" which "shall be under the jurisdiction of and represented by the delegate of the nearest white local in any meeting of the Joint Protective Board Federation or convention where delegates may be seated"; but they and other Negro employes are not permitted to attend meetings of the local lodge of the union or to vote on the election of its officers, or in the selection of those who are to represent it, nor to participate in any determination of policy in matters subject to negotiation with the carrier by the statutory bargaining agent. The case is here upon appeal by the plaintiffs from an order sustaining a demurrer to the petition. The allegations of the petition are examined, and it is held:

(a) The acts complained of constitute a violation of individual rights guaranteed by the Fifth amendment to the Constitution of the United States;

(b) State courts have not only the power but the duty to enforce rights secured by the constitution and laws of the United States when such issues are involved in proceedings properly before them; Friday 6-14-46

(c) Equitable relief by injunction was properly invoked under the facts as alleged;

Appeal from the Wyandotte district court, division No. 1; E. L. Fischer, judge. Opinion filed June 8, 1946. Judgement reversed. Call Kansas City, Mo.

William H. Towers, Elmer C. Jackson Jr., and Roy C. Garvin, all of Kansas City, Kas, were on the briefs for the appellants.

William E. Carson of Kansas City, Kas., and Arthur L. Ross of Kansas City, Mo., were on the briefs for the appellees.

Andrews was being held illegally in the death row. Atlanta, Ga.

Arkansas Keeps Ban On Negroes In State Voting

LITTLE ROCK, Ark., June 27—The Arkansas Supreme Court upheld Wednesday a legislative act designed to ban negroes from voting for state officials in Democratic primaries.

The act, passed last year, sets up separate primaries for state and federal offices. Negroes can vote to nominate federal officials.

The federal preferential Democratic primary will be held on July 1, with a run-off August 6. Primaries to nominate state officials are scheduled July 30 and August 13.

Lee Whittaker, of Fort Smith, candidate for Congress, challenged the act after seeking to force the Democratic State Committee to place his name on the state primary ballot.

Most county quorum courts have not appropriated funds to pay the costs of holding the federal primaries. Congressional candidates seeking to unseat three incumbents said this precluded a representative vote. The court ruled that the counties must pay the costs.

Loses Battle To Escape Chair

Associated Press

Sylvester Andrews, of Macon, Negro, convicted for criminal assault, lost another battle in his four-year fight to escape the electric chair yesterday when the State Supreme Court affirmed a lower court's refusal to issue a writ of habeas corpus. 6-13-46

Andrews was convicted by a Bibb Superior Court jury, July 8, 1942, on charges of assaulting a Negro woman, now dead.

Subsequently the Georgia Supreme Court upheld the conviction. The case has been taken to the State Supreme Court and to the United Supreme Court several times since then and all appeals have been denied.

The latest effort was a petition for a writ of habeas corpus in the City Court of Reidsville alleging

High Court Upholds Two Death Sentences

MONTGOMERY, Ala., July 26—The Alabama State Supreme Court yesterday upheld the death sentences of two Negroes, one convicted of criminally assaulting a woman.

Execution date for the two men, Johnnie P. Smith, of Tuscaloosa County, and John Underwood, of Prattville, was set for Friday, Sept. 13.

Smith was sentenced to the electric chair in March, 1945, for criminally assaulting a middle-aged white woman in Tuscaloosa County, but the Supreme Court reversed his conviction and ordered a new trial on the grounds his constitutional rights were violated when he was made to stand up in the courtroom.

He was tried again and the death penalty imposed for the second time on Feb. 21 of this year.

Underwood was convicted of first degree burglary, a capital offense in Alabama, but Chief Justice Lucien B. Gardner wrote in the opinion yesterday that the Negro had attempted to assault a 205-pound white woman and that "the trial proceeded largely on that theory."

The chief justice said testimony showed the woman, a 51-year-old widow, "put up what might well be described as a game fight" and that the Negro did not actually ravish her. Court records showed she later identified Underwood as her attacker.

The court announced its decisions in a special session called in the midst of the Summer recess. It will reconvene in October.

Arkansas Keeps Ban on Negroes In State Voting

LITTLE ROCK, Ark., June 27.—(AP)—The Arkansas Supreme Court upheld Wednesday a legislative act designed to ban Negroes from voting for state officials in Democratic primaries.

The act, passed last year, sets up separate primaries for state and federal offices. Negroes can vote in the primaries to nominate federal officials.

The federal preferential Democratic primary will be held July 16, with a run-off August 6. Primaries to nominate state officials are scheduled July 30 and August 13.

Lee Whittaker, of Fort Smith, candidate for Congress, challenged the act after seeking to force the Democratic State Committee to place his name on the state primary ballot.

Most county quorum courts have not appropriated funds to pay the costs of holding the federal primaries. Congressional candidates seeking to unseat three incumbents said this precluded a representative vote. The court ruled that the counties must pay the costs.

Burglary Charge Draws Death Penalty For Prattville Negro

Montgomery Advertiser
Montgomery, Ala.

The Alabama Supreme Court yesterday upheld the death sentence for two Negroes, one convicted of rape and the other convicted of first degree burglary.

Date of execution for both men Johnnie B. Smith, Tuscaloosa, and John Underwood, Prattville, was set for Friday, Sept. 13. Fri. 7-26-46

Underwood was convicted of first degree burglary, a capital offense in Alabama, but Chief Justice Lucien D. Gardner wrote in his opinion that the Negro had attempted to rape a 205-pound white woman and that "the trial proceeded largely on that theory."

The Chief Justice said testimony showed the woman, Mrs. India Rice, Prattvile, a 52-year-old widow, "put up what might be well described as a game fight" and that the Negro did not actually rape her. Court records showed she later identified Underwood as her attacker.

The burglary and attempted rape occured in Prattville on Sept. 10, 1945. The case was appealed to the Supreme Court from the Autauga Circuit Court.

Assistant Attorney General John Harris said yesterday it was not the first time in Alabama "as far as he could remember" that a person had received the death sentence for first degree burglary. He added that as "far as his memory could recall" the sentence had never been executed, however.

Smith was sentenced to the electric chair in March, 1945, for raping a middle-aged white woman in Tuscaloosa County, but the Supreme Court reversed his conviction and ordered a new trial on the grounds his constitutional rights were violated when he was made to stand up in the court room.

He was tried again and the death penalty imposed for the second time on Feb. 21 of this year. Fri. 7-26-46

Yesterday's decisions came during a weeks' special session of the Court punctuating its Summer recess. It will reconvene in October.

Kans. Court Bans Jim-Crow Union

The Afro-American
Baltimore, Md.

KANSAS CITY, Kan. (ANP) — The 100 Santa Fe Railroad repair shop employees and their counsel, victors in the recent State Supreme Court decision outlawing collective bargaining labor union discrimination, this week were preparing for full union affiliation.

Beginning the fight two years ago to get full-fledged membership in the Brotherhood of Railway Car Men (AFL), instead of separate or auxiliary union status offered them as colored workers, the group expressed hope that the case would set a precedent for other sections. Sat. 6-29-46

Violation of Constitution

The Supreme Court decision, reversing a Wyandotte County District Court verdict, was based on a Railway Labor Act principle, which "imposes upon the statutory representative of a classified craft or group the duty to protect equally the interests of those whom it represents."

Justice Hoch, also pronounced the union's bias practice a violation of the Constitution. Plaintiff counsel explained that colored members were not permitted to attend meetings; were not allowed to vote on business matters and the auxiliary had to transact business with the nearest white unit.

The Courier

Pittsburgh, Pa.

PASSES ON JOBS—M. E. Williams, Prairie View graduate, holding one of the top posts in the UN Personnel Bureau, is one of the colored administrative employes with UN organization, proving that ability transcends the complexion of man's skin. Sat. 11-9-46

Home Segregation Unlawful

Florida High Court Hits Racial Zoning

The Courier
Pittsburgh, Pa.
Sat. 11-9-46

By JOHN DIAZ

MIAMI, Fla.—The Florida Supreme Court last Thursday rendered its second decision prohibiting the county commissioners from segregating Negroes from whites by restrictive zoning.

The State's highest tribunal was unanimous for the second time in upholding Circuit Court Judge Stanley Milledge's decision that Negroes should not be denied a permit to build a home because of their race. Judge Milledge had ordered the county commission to issue a building permit to four Negroes who sought to install septic tanks for homes they had purchased from Garrison Home Builders, Inc., in Brownsville, near the city line of Miami.

The fifth Negro, who had purchased a lot from Garrison, had been denied a permit to build a home. He filed a complaint that his lumber, lying on the ground while awaiting a permit, was rotting because of the delay. He further stated in his complaint that the delay amounted to refusal based on his color and race.

RACIAL ZONING UNLAWFUL

Judge Milledge last February ordered the permit issued by the zoning department of Dade county. Against this decision the county appealed and received a final reply from the State's highest court that, according to the United States Constitution, zoning land because of race is unlawful.

The opinion of the lower court's judge was that "no authority vested in the Board of Commissioners to zone any area for the use and occupancy based on color, either by its expressed terms or by implications; that to hold that the Legislature of Florida by implication intended to vest such authority in the Board of Commissioners would be to hold that they intended to pass an unconstitutional act in this respect, contrary to the Fourteenth Amendment of the United States Constitution, which this court will not hold that the Legislature of Florida so intended by implication."

Lack of Schooling No Handicap to Tenn. Court Librarian, 70

The Afro-American
Baltimore, Md.

NASHVILLE (ANP) — Aaron Taylor's ambition was to become a lawyer, but since circumstances prevented this, he is now, at 70 years of age, librarian of the Tennessee Supreme Court and acknowledged one of the men in the State best-versed in law.

It is reported that he has read more law books than most licensed lawyers, and that justices of the Supreme Courts and leading lawyers often come to him for assistance and opinion on legal problems. Sat. 12-28-46

Born on a Giles County farm May 2, 1876, Taylor finished the fifth grade and began work as a porter in the State library and shortly afterwards was placed in charge of the State's law books.

Makes Quick Selections

Lawyers and justices are so confident of his ability that they need but mention the style of a case and Taylor will make a quick selection of the tome desired, even supplying the exact page on which the desired reference is contained.

He is often sought out to discuss merits of a case that is appearing before the courts and a hint that the counsel is on the "wrong" side is heralded as a forerunner of a negative decision from the court.

His ability to find needed volumes instantly lies in the system which he has of indexing books by States and subject matter. All current law volumes are ordered by him for the library as soon as they roll off the press.

Supreme Court Ruling Favors Press In Arkansas

Defender
Chicago, Ill.
Sat. 11-23-46

LITTLE ROCK, Ark. — Excusing two Negro publishers from paying assessments for contempt, the Arkansas Supreme Court ruled this week that there is "no law permitting jail sentences and contempt fines merely because a newspaper thinks some judge has mistakenly stated the law."

Stated by the Chief Justice, Griffin Smith, a former newspaper man, the court's unanimous opinion was that "such comment does not create a present danger to the administration of justice."

The court decision freed L. Christopher Bates and his wife Daisy, co-publishers of the Little Rock Negro weekly, Arkansas State Press, and prevented their paying $100 in fines and serving a 10-day jail sentence imposed by Circuit Judge Lawrence Auten. Auten cited the publishers for contempt for articles published in

... March in connection with the conviction of three Negroes charged with violating the state's anti-strike violence legislation.

Anti-Ghetto Decision Reversed In Missouri

Defender
Chicago, Ill.
Sat. 12-21-46

By HOWARD B. WOODS
(Defender Staff Correspondent)

JEFFERSON CITY, Mo.—In a decision far-reaching in its significance, the Missouri Supreme Court reversed an earlier ruling of the Circuit Court of St. Louis which had held that restrictions on Negroes in certain residential areas were not valid and prohibited by law.

Alarmed over the ruling that would forever bind Negroes to ghettoes throughout this border-line state, Negro real estate agents of St. Louis called an emergency meeting last week, and unanimously passed a resolution condemning the action and pledged themselves to carry the fight to the United States Supreme Court if efforts to secure a rehearing on the case are not successful.

Negroes Mobilize

According to Atty. George L. Vaughn, counsel for the Negro property owners in the case, motions are being prepared for the rehearing and for a modification of the judgment of the state tribunal.

This case grows out of the purchase of a house by Mr. and Mrs. J. D. Shelley, 4600 Labadie ave., in St. Louis in 1945. The plaintiffs, Mr. and Mrs. Fern A. Kraemer, backed by the Lindell-Chauteau Improvement Association and the St. Louis Real Estate Exchange, brought suit against the Shelleys to enjoin them from living in the property and to take the ownership from them. The case was tried before Circuit Judge William K. Koerner who ruled an anti-Negro-Mongolian agreement void and dismissed the petition of the plaintiffs.

According to Attorney Vaughn, this is the first instance the state of Missouri has ruled upon the question of state action by enforcement through its courts of restrictive agreements. There are several cases pending in the Circuit Courts of St. Louis, all of which are naturally affected by this decision.

Mo. Supreme Court Rules St. Louis Exclusion Contract Enforceable

The Call
Kansas City, Mo.

JEFFERSON CITY. — A restrictive covenant excluding Negroes and Mongolians from a residence area in St. Louis for a period of fifty years was called legal and enforceable by the Missouri Supreme court this week.

The ruling of the court reverses a finding of the St. Louis Circuit court which had ruled the exclusion contract made in 1911 by thirty property owners on Labadie Ave., in a two-block area lying between Taylor and Cora Aves., was not legal and enforceable. Fri. 12-20-46

The court action to uphold the agreement of the property holders was sought by Louis and Fern E. Kraemer, who desired to remove J. D. and Ethel Lee Shelley, Negroes, from the property they had purchased and occupied in the area. The court said the Shelleys got possession of the property through a 'straw' party, a white woman, Josephine Fitzgerald, who bought the property and transferred it to them.

The court said that it was not unmindful of the over-crowded conditions, lack of dwellings under which Negroes live, that this has become worse as more than 100,000 additional Negroes have moved into St. Louis in the last few years.

"Such living conditions," wrote Judge James M. Douglas, "bring deep concern to everyone and present a grave and acute problem to the entire community.

"Their remedy should challenge both governmental and private leadership. It is tragic that such conditions seem to have worsened, although much

has been written and said on the subject from coast to coast, yet nothing adequate has been done about it.

"The remedy, however, is beyond the authority of the courts generally, and in particular in a case involving the determination of contractual rights between parties to a law suit. If their correction is sought in the field of government, the appeal must be addressed to its branches other than the judicial."

The court's decision in this case was not concerned with any moral concepts, but only with the validity of a contract.

Reverses Circuit Judge's Order

Restrictive Covenant Upheld In St. Louis by State Court

The Courier
Pittsburgh, Pa. Sat. 12-21-46

By GEORGE B. STAFFORD, St. Louis Bureau

ST. LOUIS—One of the most important decisions affecting Negroes was handed down last week when the Missouri Supreme Court upheld a 35-year-old agreement of a group of white property owners barring Negroes from owning or occupying property on Labadie Avenue between Taylor and Cora Avenues until [redacted] holding that the restrictive agreement did not violate the State Constitution or the civil rights guarantees of the United States Constitution.

The opinion reversed an order by Circuit Judge William K. Koerner in a suit filed by Mr. and Mrs. Louis W. Kraemer, white, 4532 Labadie Avenue, seeking to enjoin Mr. and Mrs. J. D. Shelley from purchasing and occupying a house at 4600 Labadie. Judge Koerner had ordered dismissal of the suit on the ground the restrictive agreement on which it was based, signed Feb. 18, 1911, and to run for fifty years, was invalid. The Kraemers were backed by the Marcus Avenue Improvement Association, long a foe of Negro expansion. The agreement was signed by thirty of the thirty-nine owners. Five of the nine who did sign were Negroes.

NEVER BECAME FINAL

Judge Koerner, in the lower court, held it was the intention of the signers that all property in the district be covered by the restrictions. As some held the agreement never became final and complete, and was void. The Courier Pittsburgh, Pa.

Judge James M. Douglass who wrote the opinion, said Judge Koerner found that the Negro population in St. Louis had greatly increased in recent years until it now exceeded 100,000 and that overcrowding in some of the Negro sections was detrimental to moral and physical well being.

"BEYOND THE COURT"

"Such living conditions bring deep concern to everyone," Judge Douglass said, "and present a grave and acute problem to the entire community. Their correction should strikingly challenge both governmental and private leadership. Sat. 12-21-46

"It is tragic that such conditions seem to have worsened, although much have been written and said on the subject from coast to coast.

"But their correction is beyond the authority of the courts generally and in particular in a case involving the determination of contractual rights between parties to a law suit. If their correction is sought in the field of government, the appeal must be addressed to its branches other than the judicial."

PREVIOUS DECISIONS

The Supreme Court, however, held the agreement, by its terms, was intended to cover only property of owners who signed it and absence of nine parcels from the convenant did not affect its validity.

"Agreements restricting property from being transferred to or occupied by Negroes have been consistently upheld by the courts of this State," Judge Douglass said, "as one which the parties have the right to make and which is not contrary to public policy."

Judge Douglass said the new provision in the Bill of Rights of the 1945 State Constitution that "all persons are created and are are entitled to equal rights and opportunities under the law not only sustained these decisions but even strengthened them."

Contentions that the restrictions violated c civil rights guarantee of the Federal Constitution were over-ruled. Judge Douglass cited dicisions that neither the Thirteenth nor Fourteenth Amendements prohibited private individuals from entering into contracts respecting the controls and disposition of their own property. The Courier Pittsburgh, PA EYE HIGH COURT Sat. 12-21-46

George L. Vaughn, attorney for the Shelley's told The Courier, "The dicisions is perhaps the most vital thing that has affected us here in St. Louis. If the opinion stands, it menas that if we can be restricted from one peice of property or an area then we can be restricted from all property or areas. Then we couldn't even live in Missouri.

"We have fiftenn days in which to file for a rehersing. If we are denied this, I plan to take the case to the United States Supreme Court." The Courier

Mrs. J. D. Shelley told the Courier, "We have been here since September, 1945, and have never had any trouble whth our neighbors. Naturally, we wr want to stay here and plan to fight through Attorney Vaughn. Sat. 12-21-46

15b 1946

Court Rules Shipyard Jim-Crow Must Stop

Daily Worker New York

By Federated Press 2-9-46

SAN FRANCISCO, Feb. 8.—Unanimously reversing two lower court decisions on minority discrimination, the California Supreme Court ordered that Negroes be given full membership rights in the International Brotherhood of Boilermakers (AFL) and that the Moore Drydock Co. of Oakland must treat Negroes on a basis of equality with other employes.

In the Boilermakers' test case, that of Wilbert Williams, an injunction was granted restraining the union from compelling Negroes to join an auxiliary local. In the suit of Raymond F. Thompson against the Moore Drydock Co., he was given an injunction restraining the company from helping the union to discriminate against Negroes. 2-9-46

Both cases arose from an attempt two years ago to compel Negro shipyard workers to join the Jim-crow auxiliary or be fixed. Chief Justice Phil Gibson, who wrote both decisions, quoted a ruling of the U. S. Supreme Court that "denying membership in a union by reason of race, color or creed is a violation of the 14th Amendment."

Supreme Court Sustains Decision Against Negro

New—dat. Negro Birmingham, Ala.

COLUMBIA, S. C., Jan. 26—(AP)—An appeal by a 21-year-old Negro in a case in which the international labor defense and other organizations filed a brief in his behalf was rejected today by the South Carolina Supreme Court.

All defense exceptions were overruled in the opinion which upheld the conviction and 25-year sentence of Arthur Middleton for assaulting a white woman. 1-27-46

"The verdict of the jury is fully sustained and the sentence of the court is free from error," the opinion said.

The main point raised by the defense was the trial judge's refusal of a motion to quash the indictment on the ground that there were no Negroes on the jury or on the Grand Jury which indicted Middleton.

Ohio Supreme Court Rule a Precedent for Others

The Afro-American

Upheld Lower Tribunal's Decision Granting Damages to a Consumer Refused Goods

Baltimore, Md.

Sat. 1-4-47

COLUMBUS, Ohio—When the Ohio Supreme Court in a recent decision, upheld a lower court ruling which forbade discrimination by a retail grocery store, a precedent was set for other States to follow:

The Cuyahoga Court of Common Pleas in 1942 awarded damages to Claude Wright after a jury found Thomas M. Garbet guilty of violating the General Ohio Code by refusing to sell merchandise to Wright because of his color.

State Power Questioned

In his appeal to the higher court, Garbet questioned the power of the State to regulate grocery stores in the manner provided in the State law, and said that the law violates the Fourteenth Amendment of the Constitution.

Arguments for wright were presented to the Supreme Court by NAACP attorneys Thurgood Marshall, Marian Wynn Perry, Franklin H. Williams of New York and Chester K. Gillespie of Cleveland.

Statute Applies

They argued that the statute applies to a retail grocery store under legislative intent and through common and legal definition of the language of the statute.

Explaining that legislation forbidding discrimination by a retail grocery store is a proper exercise of police power of the State and does not violate the Fourteenth Amendment, the counsel said that private business may be regulated for public welfare.

The Ohio Law

Sections 12940 and 12941 of the Ohio code read:

"The proprietor or his employee, keeper or manager of an inn, restaurant, eating house, barber shop, public conveyance by air, land, or water, theater, store or other place for the sale of merchandise, or any other place of public accommodation or amusement, who denies to a citizen, exceut for reasons applicable alike to all citizens and regardless of color or race, the full enjoyment of the accommodations, advantages, facilities or privileges thereof, or, being a person who aids or incites the denial thereof, shall be fined not less than $50 nor more more than $500 or imprisoned not less than 30 days, nor more than 90 days, or both.

"Further Penalty. Whoever violates the preceding section shall also pay not less than $50 nor more than $500 to the person aggrieved thereby to be recovered in any court of competent jurisdiction in the county where such offense was committed." Sat.

In their briefs the attorneys cited parallel rulings in other similar cases and stated: 1-4-47

"It is in the light of the social and economic position in which colored citizens of America find themselves today that this court must consider the reasonableness of the exercise of State police powers for protecting colored people in Ohio against discrimination in a retail grocery store.

"If these citizens are not protected in their right to purchase freely on an open market as undifferentiated members of the general consuming public, thes restriction will result in lowering their standard of living, and endangering the health and welfare of the people of the State.

King Wins Decision In U. S. Court

Memphis World, Tennessee

Fri 3-8-46

NEW ORLEANS, La.—(SNS)—The United States fifth circuit of appeals Wednesday handed down an opinion that affirmed the ruling of Judge T. Hoyt Davis in the middle district of Georgia court last October that the Rev. Primus E. King, of Columbus, Ga., is eligible to vote in the Democratic primary of Georgia.

Rev. King's suit stated that King was denied the right to vote in the July 4 primary in Muscogee county because of race, only otherwise he was qualified to vote. His suit was brought against Joseph E. Chapman Jr. chairman of the Muscogee county Democratic executive committee, et al who were accused of denying the right to vote.

The Judges who framed the opinion are: Judge Samuel H. Sibley, Leon McCord and Edwin R. Holmes.

Apparently this ruling means that Negroes will vote in the coming primary at which time a governor and other state officials will be nominated. *Fri 3-8-46*

Until a few months ago Negroes in Georgia have not voted in a primary for almost half a century.

The full text of the decision of the United States fifth circuit court of appeals will appear in a later edition of the World.

Registrar Denied Rehearing By U. S. Court Of Appeals

Sat. New Orleans, La. Louisiana Weekly

The United States District Court of Appeals has denied a plea for another hearing on the Louisiana vote case, filed by T. F. Nagel, Registrar of Voters, defendant in the case. The court had recently decided in favor the plaintiff, Edward Hall, who had filed a case against the registrar, charging discrimination when he was not allowed to register. The court reversed the decision of a lower court which had decided in favor of the registrar. *5-25-46*

Edict by U.S. Judge Stuns Dixie Bloc

The Afro-American, Baltimore, Md.

Orders Norfolk Man Back on 'Run,' 2 Injunctions Flay Discrimination

Sat. 10-19-46

NORFOLK, Va.—In what may become another historic court decision, Judge Sterling Hutcheson of the U.S. District Court, Eastern District of Virginia, ruled here last Thursday that a railroad brotherhood has no right to enforce a collective bargaining agreement which bars a colored fireman from promotion solely because of his race.

Judge Hutcheson ordered that Tom Tunstall, a fireman on the Norfolk Southern Railway, be restored the right to hold an assignment on passenger runs between Norfolk and Marsden, N.C.

Restrained Permanently

The Brotherhood of Locomotive Firemen and Engineers was restrained, by a permanent injunction, from acting as bargaining agents for Tunstall and other colored firemen "so long as it or they continue to use its position to destroy the rights of the plaintiff and the calss he represents."

A further injunction prohibits the brotherhood from enforcing a collective bargaining agreement of Feb. 18, 1941, and a supplemental agreement of May 23, 1941, in so far as it deprived Tunstall of his right to the "run," or in any other way "interferes with his occupation" as a locomotive fireman.

Judge Hutcheson's decision, a declaratory judgment, said the brotherhood "is under the obligation to represent fairly and without discrimination" Tunstall and other colored workers of his craft. *The Afro-American*

White Firemen Favored

Evidenced in the case showed that Tunstall had been withdrawn from his assignment on passenger runs between Norfolk and Marsden, N.C., and replaced by W. M. Munden, a white fireman with less seniority. *Baltimore, Md.*

A fireman since 1912, Tunstall was given an unfavorable assignment where he worked more hours for less pay than on the Marsden run. *Sat. 10-19-46*

Sets Up 2 Classes

The brotherhood divided firemen into two classes, "promotable" and "non-promotable." Entered into without knowledge of the colored employees, the pacts excluded them from the "promotable" class.

Judge Hutcheson pointed out that the Norfolk Southern Railway, and other railroads of the Southeastern Carriers Conference, objected to the agreements when they were first proposed by the brotherhood, which then invoked the authority of the National Mediation Board.

It was pointed out further that the brotherhood is the statutory bargaining agent of the plaintiff, therefore, Tunstall had no right to bargain in his own behalf and relied solely on the "faithful discharge of duty by the brotherhood."

Ban Engineers

"It is significant," the judge asserted, "that nothing in the record indicates that the brotherhood has suggested to the railroads an arrangement by which colored firemen may be promoted to the position of engineer . . .

"There's doubt that an underlying purpose of the brotherhood was to effect an arrangement by which all promotable men might obtain advantages over non-promotable men . . .

"A desirable job has been taken from a competent employee who, so far as the record discloses, is also competent but junior in seniority, because he is promotable (white) . . .

Stone Read Decision

The case went before the Supreme Court two years ago on a question of jurisdiction only, and in December, 1944, the Supreme Court, reversing the U.S. Fourth Circuit Court of Appeals, and the late Judge Luther B. Way, (whom Judge Hutcheson succeeded), held the Federal Court did have jurisdiction in the litigation.

The late Chief Justice Harlan Stone read the high court's unanimous decision.

Tunstall Happy

Although an appeal from Judge Hutcheson's decision is expected, counsel for the brotherhood has not disclosed their intentions.

A companion case in which Tunstall seeks damages of $25,000 was continued by the jurist.

MRS. VIVIAN C. MASON WINS $17,000 DAMAGES

Daily World, Atlanta, Ga. Wed 3-6-46

PHILADELPHIA. — (ANP) — The United States District court for Philadelphia last week awarded Mrs. Vivian Carter Mason $17,000 in settlement for claims against the Pennsylvania railroad in a case pending since 1943 when she suffered severe injuries in the Labor day wreck of the road's crack Congressional Limited in which 70 were killed and scores injured. She was represented by Raymond Pace Alexander.

Mrs. Mason, vice president of the National Council of Negro Women, was traveling alone on the 75-mile-per-hour express between Washington and New York, when the wreck occurred. According to evidence presented the court painful spinal injuries resulted when the car in which she was riding was thrown over the trestle after the train leaped the tracks just above North Philadelphia. A patient in the Episcopal hospital her for four weeks, she later spent a week in the Community hospital of Norfolk, and was confined to her home for nearly a year following the accident under care of several physicians, according to testimony.

Mr. Alexander, attorney for Mrs. Mason, states that the settlement of this case at $17,500 represents one of the largest settlements of a personal injury case to a Negro litigant in the history of the state of federal courts of Pennsylvania.

Federal Court Ordered To Hear Negroes' Plea

Montgomery, Ala. ~~Montgomery Advertiser~~

NEW ORLEANS, April 24.—(AP)—The U. S. Fifth Circuit Court of Appeals today ordered that the suits of two Negroes, who asserted they were denied voting registration in Louisiana and Alabama, be taken up again in the lower federal courts which had dismissed them.

Each of the plaintiffs alleged that registration officials had followed "deliberate policy and custom to deprive Negroes of the vote." *Thurs 4-25-46*

In the Alabama suit, which the Circuit Court treated as the main case, William P. Mitchell, Negro, accused registrars of voters of Macon County of refusing to register him although he had the necessary requirements and had executed the necessary forms. Edward Hall, Negro, made similar allegations against the registrar of voters of St. John the Baptist Parish, La., saying he had been denied even a form on which his ability to read and write could be tested.

Appeals Court Affirms Negro's Vote Rights

Ala. Birmingham News

NEW ORLEANS, March 7—(AP)—The right of a Negro citizen of Georgia to vote in that state's Democratic primary elections has been affirmed by the U. S. Fifth Circuit Court of Appeals. *3-7-46*

The court sustained a decision of the Federal Court for the Middle District of Georgia in favor of Primus E. King, Negro of Columbus, who was awarded $100 damages against members of the Muscogee County Democratic committee.

King alleged he had been denied the right to vote in a Democratic primary solely on account of his race. *Thursday*

The appellate court held that conducting the primary was an "action by the state" and that denying King the vote violated the 14th, 15th and 17th amendments to the federal constitution.

Negroes Win Vote Appeals

Daily Worker, N.Y., N.Y.

Two registration cases from St. John Parish, Louisiana, and Macon County, Alabama, were decided in favor of Negro applicants yesterday.

A decision by Judge Edwin R. Holmes of the U. S. Court of Appeals, Fifth Circuit, reversed the lower court's dismissal of the complaints. *Sat. 4-27-46*

In the Louisiana case, Edward Hall sought an injunction and damages against the registrar for requiring Negroes to submit to tests not required of other applicants. Judge Holmes ruled Hall need not proceed in the state courts before seeking redress in the Federal courts.

In the Mitchell case in Macon County, Judge Holmes stated, **"Since registration is a prerequisite to vote in any election in Alabama, including the election of federal officers, the action of the registrars did effectively deprive appellant of the right to vote."** *4-27-46*

Attorneys associated with Thurgood Marshall, NAACP Chief Counsel and Robert Carter, Assistant Counsel, were A. P. Tureaud and A. Thornton in Louisiana and Arthur W. Shores, member of the Birmingham Legal Committee.

U.S. Court Blocks Move to Replace 111 Trainmen

Afro American, Baltimore, Md. Sat 4-13-46

ST. LOUIS (ANP)—U.S. District Court Judge George H. Moore temporarily blocked a move to discharge 111 trainmen of the railway companies here, slated to have been replaced by white members of the Brotherhood of Railroad Trainmen, Apr. 1.

The order enjoins and restrains Frank A. Thompson, of the railway lines, from putting into operation the agreement he entered into March 7 with the all-white BRT, said Vernon C. Coffey, attorney for a rival non-discriminatory railway union.

The writ also prevents Thompson from replacing Simon L. Howard Sr., a train porter of Memphis, and other trainmen known as train porters with white brakemen as Thompson's agreement had planned.

Credit for temporarily blocking the wholesale discharge goes to Attys. Victor Packman and Henry D. Espy, the colored trade unions, railroad men, pastors of churches and their members, said Coffey. *Sat 4-13-46*

"The National Mediation Board, Washington, and the first division

of the National Railroad Adjustment Board, Chicago, flatly refused to take jurisdiction over this dispute, Coffee pointed out.

Condemns NRAB

Deploring the fact that colored railway men have to resort to Government courts for justice under the Railway Labor Act of 1934, Coffey stated that board members of the National Railroad Adjustment Board should be appointed or selected by the President or Congress to ensure fairness.

Court Rules Va. Statute Invalid

The Courier Pittsburgh, Pa.

Sat. 10-5-46

WASHINGTON—Segregation of interstate passengers in jim-crow railroad cars was declared unconstitutional in a decision rendered by the District Court of Appeals last week. The court based its decision on the Supreme Court ruling in the Irene Morgan case.

Here is the complete text of the decision:

UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA

Nos. 9062, 9063, 9064

Ralph Matthews, William J. Scott, William H. Jernagin, Appellants,

v.

Southern Railway System, Appellee.

Appeals from the District Court of the United States for the District of Columbia.

Argued Nov. 23, 1945. **Decided Sept. 23, 1946.**

Messrs. George E. C. Hayes and *James A. Cobb*, with whom *Mr. Leon A. Ransom* was on the brief, for appellants.

Mr. H. G. Hedrick, with whom *Messrs. George E. Hamilton, Jr., Henry R. Gower*, and *S. R. Prince* were on the brief, for appellee. *Mr. T. C. Fort, Jr.*, also entered an appearance for appellee.

Before Edgerton, Clark and Prettyman, JJ.

PRETTYMAN, J.: Appellants brought civil actions in the District Court for damages for breach of contract and violation of their rights as interstate passengers on the appellee company's railroad. The cases were consolidated for trial, trial was had before a jury, and the verdict was for the company.

Appellants bought tickets in Philadelphia for passage on appellee's railroad to Greensboro, North Carolina; these tickets included through seat reservations for specified seats in specified cars. They boarded the train at Philadelphia and occupied the designated seats. At Alexandria, Virginia, and again at Charlottesville, the conductor and others of the train crew requested that they move to other seats in another car. They refused. Agents of the railroad notified the Police Department of the City of Lynchburg, Virginia, "of the situation that confronted them." At Lynchburg, Virginia, a police officer boarded the train. The conductor pointed out appellants. Some conversation ensued. The officer requested them to move to the other car, and, when they refused, he told them that in that case he would have to compel them to get off the train. Thereupon they got off.

The agents of the railroad and the police officer claimed to act pursuant to the Virginia statute[1] which requires that railroads operating in that state furnish separate cars for white and colored passengers, and makes it a misdemeanor for any company or person to fail, refuse, or neglect to comply. Appellants claimed that the statute was invalid as to interstate passengers and, therefore, inapplicable to them, and that they had contracted with the railroad for specified seats in specified cars. It is now clear that their contention regarding the invalidity of the statute is correct.[2]

The railroad did not urge in the trial court the validity of the Virginia statute and does not urge it here. Neither does it rest its case upon its right to make and enforce reasonable regulations; nor does it claim that the conductor and train crew acted without the scope of their authority. Appellants claimed that the police officer acted on behalf of the railroad in ejecting them from the train, and that the conductor and train crew participated in the ejection. The railroad denied that claim. The issue before us is the correctness of the charge to the jury upon the law on that point.

In the charge to the jury, the court said:

"I used the expression 'acting in behalf of the defendant' in referring to the police officer, and this expression should be explained. If a person does nothing more than notify a police officer of an apparent violation of the law, such person is not answerable for the act of the police officer on his own initiative. Stated in another way, mere information to officers of the law tending to show that an offense has been committed, or that some person may be suspected of its commission is not enough, of itself, to establish the fact that the informer participated in the conduct of the officer. Therefore, if all the conductor did, or all that any of the employees of the company did was to notify the police officer of what he thought was a violation of the law, the defendant would not be liable for what the officer did on his own initiative. But, on the other hand, if the conductor or other employee did more than that, the defendant would be answerable for the police officer's conduct."

But the court continued, later in the charge:

"I shall now read you defendant's prayer for instruction No. 2, which I have reframed,—and this is the one which is more or less repetitious of what I have already said to you.

"The jury are instructed that the burden of proving that the police officer at Lynchburg acted on behalf of the defendant is on the plaintiffs, and if you find that the police oficer, in requiring the plaintiffs to leave the defendant's train, if you so find, was acting solely as a police officer of the city of Lynchburg, and not wholly or partly *as an agent for defendant*, then your verdict should be for the defendant." (Emphasis supplied.)

This case is governed by the rules of law applicable to the obligations of a common carrier to its passengers and its liabilities for breach of those obligations. A common carrier is required to protect its passengers against assault or interference with the peaceful completion of their journey.[3] But an exception to the general rule is that an agent of the carrier is not required to interfere with a known officer of the law apparently engaged in the performance of his duty.[4] This exception covers the action of an agent of a carrier in pointing out to a known officer of the law persons as to whom the officer inquires.[5] Some cases hold that the exception does not apply if the agent knows that the arrest is illegal,[6] but that doctrine seems to contemplate factual knowledge and does not impose upon the carrier's agent the obligation to decide questions of law. Under the exception, the railroad is not liable for action of its agents in notifying police officers of violations of law or suspected violations.[7] This latter is so because of the basic public policy which protects such notification generally[8] and also because of the primary duty of a conductor of a train to protect passengers from injury by others; e. g., assault, robbery, insult, disturbance, etc., in which cases the conductor must call the police. But the exception goes no further. It does not cover the action of the agent in otherwise causing, procuring, assisting in, or participating in the arrest or ejection, or where the arrest is at the instance of the agent.[9] I nother words, there is a clear line between the action of an agent of a carrier in merely notifying the police of a violation of law or identifying persons at the request of a police officer, and his action in going beyond mere notification or identification and by some additional act procuring, causing, directing, or participating in an arrest or ejection. Liability in the latter cases rests upon joint *tort-feasance* or breach of contract, and not upon agency.[10]

It follows that the instruction to the jury by the trial court in the case at bar was correct except for the injection of the issue of agency. It was not necessary that the policeman be the agent of the railroad company in order that the company be liable. The court, therefore, erred in telling the jury that if it found that the police officer was not acting wholly or partly as an agent of defendant, the verdict must be for defendant.

Appellee urges that the cases were brought by plaintiffs and tried upon the theory of agency. We do not find that the record so presents them. The complaints lay the claim "by reason of the defendant's unlawful action through its agents and servants, as aforesaid, and through persons acting at its instance and behest. . . . and . . . by reason of the defendant's unlawful, wanton and reckless breach of contract, through its agents and servants . . ." As we read those averments, the "agents and servants" were the conductor and the train crew, and the "persons acting at its instance and behest" were the police. Thus, the complaint lies in *tort* against the railroad as a *tort-feasor* with others, *i. e.*, the police, and in contract by reason of the acts of the conductor and train crew in calling the police. The complaint alleges the damages as caused by "actions of the defendant through its lawful agents and servants and police officers acting at its instance."

In his argument upon his motion for a directed verdict, counsel for the railroad presented the view that there was no jury issue "upon the question of agency," but the position of counsel for the appellants was, "In this case we have an actual participation by the company every step of the way," and his argument was that the evidence showed participation by the conductor in the actual ejection, and also showed instructions by the conductor to the officer in addition to mere notification and identification. In reply, counsel for the railroad again urged that the question was one of agency. But the court said that the question was whether the company, through its agents, "indicated" what the police officer should do, whether the conductor "was directing" the officer. And the court denied the motion with the comment, "But the explanation to the office when the inquiry was made, 'Where do you want them to go?' instead of saying, 'Enforce the law, Officer,' he said, 'I want them to go into the next car.'" At that point, it seems clear that appellants were urging participation by the company, through the conductor, at every step in the incident, whereas the company was urging that an agency of the police officer must be shown; and the court was of the view that there was sufficient evidence to go to the jury upon the issue of participation. Later, however, in discussing the prayers, the court told counsel for appellants, "You have to establish agency before this jury before you can recover." Counsel for appellants said, "Suppose he acted at the instance of the railroad company?" The court repeated, "I say if he is not acting as an agent the plaintiffs cannot recover," and counsel for appellants said, "But that begs the entire question." The record contains more of the same nature. In fact, counsel for appellants at one point referred to the removal from the train as being "through this person acting—and I use your Honor's expression—as its agent." But we have quoted enough to show that appellants' claims were made and urged on the basis that the company, by the conductor, actually participated in the ejection, while the railroad was insistent throughout that appellants must show that the officer acted as an agent of the company. This controversy, which ran through the whole case, culminated in the part of the charge to the jury which referred to agency. That part of the charge was, as we have said, error, and because the dispute concerning the point ran persistently through the entire course of the case, we think the error was substantial and reversible.

Appellee says that any theory under which it might be liable, aside from the relationship of agency as between it and the officer, would be a new theory in these cases and was not presented below in this case, and that all the facts have been considered by the jury upon the issue of agency. We cannot agree. The cases, some of which we have cited, appear to us to be in unanimous accord that liability may rest upon a joint *tort-feasance* entirely apart from an agency, or upon a breach of contract. Upon the trial, it was appellee's case, not appellants' claim, which was rested upon agency.

Our opinion in this case is consistant with those of this court in *Washington, B. & A. Electric R. Co. v. Waller*, 53 App. D. C. 200,289 Fed. 598 (1923), and *Kinchlow v. Peoples Rapid Transit Co.*, 66 App. D. C. 382, 88 F. 2d 764 (1937); and with the decision of the Circuit Court of Appeals for the Eighth Circuit in *Thompkins v. Missouri, K. & T. Ry. Co.*, 211 Fed. 391 (1914).[11]

Reversed.

CLARK, J., dissenting: In my opinion the facts in this case justified the instruction on the agency question. I do not think the instruction unnecessarily limited the jury in its deliberation, and feel that their determination should be upheld.

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1 Va. Code Ann. (1942) §§ 3962-3964.

2 That question has been settled by Morgan vs. Virginia, 14 U. S. L. Week 4395 (U. S. 1946). The decision in the case at bar was wtihheld by this court pending that decision, as the writ of certiorari was granted in that case shortly after this case was argued. We see no valid distinction between segregation in buses and in railroad cars.

3 New Jersey Steamboat Co. v. Brockett, 121 U. S. 637, 30 L. Ed. 1049, 7 S. Ct. 1039 (1887).

4 Chesapeake & O. R. Co. v. Pack, 192 Ky. 74, 332 S. W. 36 (1921); Mayfield v. St. Louis, I. M. & S. Ry. Co., 97 Ark. 24, 133 S. W. 168 (1910); Baldwin v. Seaboard Air Line R. Co., 128 Ga. 567, 58 S. E. 35 (1907); Clark v. Norfolk & W. Ry. Co., 84 W. Va. 526, 100 S. E. 480 (1919); Brunswick & W. R. Co. v. Ponder, 117 Ga. 63, 43 S. E. 430 (1903); Louisville & N. R. Co. v. Byrley, 152 Ky. 35, 153 S. W. 36 (1913); Gillingham v. Ohio River R. Co., 35 W. Va. 588, 14 S. E. 243 (1891); Nashville, C. & St. L. Ry. v. Crosby, 183 Ala. 237, 62 So. 889 (1913); 4 Williston, Contracts (rev. ed. 1936) § 1094.

5 Burton v. New York Cent. & H. R. R. Co, 147 App. Div. 557, 132 N. Y. S. 628, aff'd, 210 N. Y. 567, 104 N. E. 1127 (1914) Kinchlow v. Peoples Rapid Transit Co., 66 App. D. C. 382, 88 F. 2d 764 (1937); Owens v. Wilmington & W. R. Co., 126 N. C. 139, 35 S. E. 259 (1900); Bowden v. Atlantic Coast Line R. Co., 144 N. C. 28, 56 S. E. 558 (1907).

6 Anania v. Norfolk & W. Ry. Co., 71 W. Va. 105, 87 S. E. 167 (1915); Birmingham Ry., L. & P. Co. v. Lipscomb, 198 Ala. 653, 73 So. 962 (1916); Louisville & N. R. Co. v. Byrley, 152 Ky. 35, 153 S. W. 36 (1913); 4 Williston, Contracts (rev. ed. 1936) § 1094.

7 Kinchlow v. Peoples Rapid Transit Co., 66 App. D. C. 382, 88 F. 2d 764 (1937); Shea v. Sullivan, 261 Mass. 255, 158 N. E. 771 (1927).

8 Prigg v. Lansburgh, 5 App. D. C. 30, 38 (1894).

9 Manning v. Atchison, T. & S. F. Ry. Co. (both majority and dissenting opinions), 42 N. M. 381, 79 P. 2d 922 (1938); Eichengreen v. Louisville & N. R. Co., 96 Tenn. 229, 34 S. W. 219 (1896); Duggan v. Baltimore & O. R. Co., 159 Pa. St. 248, 28 Atl. 182 (1893); Texas Midland R. R. v. Dean, 98 Tex. 517, 85 S. W. 1135 (1905); see Schmidt v. New Orleans R. Co. (under civil code), 116 La. 311, 40 So. 714 (1906), and Notes (1907) 7 L. R. A. (N. S.) 162.

10 Central Ry. Co. v. Brewer, 78 Md. 394, 28 Atl. 615 (1894); Manning v. Atchison, T. & S. F. Ry. Co., 42 N. M. 381, 79 P. 2d 922 (1938); Texas Midland R. R. v. Dean, 98 Tex. 517, 85 S. W. 1135 (1905); see 4 Williston, Contracts (rev. ed. 1936) § 1113, and 1 Cooley, Torts (4th ed. 1932) § 60, p. 172.

11 For general discussions of these rules, see Note (1920) 6 Va. L. Rev. 456; Note (1920) 29 Yale L. J. 352; and Note (1939) 24 Corn. L. Q. 274.

——BILBO MUST GO!——

Tunstall Decision Hailed

The Afro-American Baltimore, Md. Sat. 10-19-46

We hope that Judge Sterling Hutcheson of the Federal District Court, Eastern District of Virginia, in ruling that the Norfolk Southern Railway must restore to Tom Tunstall his right to work his old passenger run, will settle once and for all the legal case which has been in the Federal courts for four years.

But knowing the cussedness of some humans, we won't be the least bit surprised should the Brotherhood of Locomotive Firemen and Enginemen take the case all the way to the U.S. Supreme Court in an effort to obtain a ruling which will permit it to continue barring colored firemen from promotion solely because of race. So we have our fingers crossed.

Truthfully, though, we do not believe that any higher court would reverse Judge Hutcheson who, it appears, has been eminently fair in protecting the legal rights of an American citizen. Rather, we feel that the brotherhood, should it choose to fight the case, will only add more ridicule to its already untenable position.

Added to the Hutcheson ruling is a declaratory judgment that the brotherhood "is under obligation to represent fairly and without discrimination" all colored workers in the crafts it controls.

Mr. Tunstall had been removed from the passenger run between Norfolk and Marsden, N.C., and replaced by a white fireman with less seniority. By a previous agreement with the 21 member roads of the Southeastern Carriers' Conference, the brotherhood had ruled that only white firemen would be promoted to engineers and that the proportion of "non-promotable" firemen (colored) should not exceed 50 per cent. This was discriminatin of the rankest order.

The Tunstall case was filed in August of 1942, and in April of 1943, the late Judge Luther B. Way dismissed it, ruling that Federal courts had no jurisdiction over such cases.

In December of that year, the late Chief Justice Harlan F. Stone of the U.S. Supreme Court read a unanimous decision reversing the lower court. Last year, the appellate court at Richmond remanded the case to the district court in Norfolk.

With the Hutcheson decision, there can be no debate. It establishes a principle already enunciated by the highest tribunal in the land. It is a matter of simple justice. The decision takes its place beside recent decisions in the railroad and bus cases and with earlier rulings regarding lily-white primaries in the South. All provide ample precedent for the Hutcheson ruling.

We commend Judge Hutcheson for his fairness, Mr. Tunstall for his patience and fearlessness, and his counsel, Dr. Charles Houston, Joseph Waddy and Oliver W. Hill, for their diligence and legal know-how in pushing this case to a momentous climax.

It is becoming more apparent each day that our resort to the courts is one of the quickest and surest ways of ending the injustices which beset us.

Supreme Court Reverses Decision Of District Court

The Informer Houston, Texas

Sat. 10-5-46

WASHINGTON, D. C.—(NNPA).—The question of segregation on the basis of race of interstate passengers has been settled by the decision of the Supreme Court in the Irene Morgan case with respect to railroads as well as buses, the United States Circuit Court of Appeals for the District of Columbia ruled in reversing a decision of the District Court.

Applicability of Jim Crow statutes to interstate passengers on railroads was raised in a suit for damages for breach of contract and violation of their rights as such passengers brought by Ralph Matthews of the Afro-American Newspapers, William J. Scott, a photographer, and the Rev. William H. Jernagin, president of the National Baptist Young People's Union, against the Southern Railway System.

The trio bought tickets in Philadelphia for travel to Greensboro, North Carolina, on a Southern Railway train. Their tickets called for through seat reservations for specified seats in specified cars.

They boarded the train in Philadelphia and occupied the specified seats. At Alexandria, Virginia, and again at Charlottesville, the train conductor and other members of the train crew requested them to move to the Jim Crow car which was put on in Washington. They refused.

Agents of the railroad notified the police of Lynchburg, Virginia. At Lynchburg, a police officer boarded the train. The conductor pointed out the trio defying the Virginia Jim Crow law. The officer asked them to move. They refused. He then told them they would have to get off the train. They got off.

The agents of the railroad and the policeman claimed they were acting in accordance with the Virginia statute which requires that railroads operating in that state furnish separate cars for white and colored passengers and makes it a misdemeanor for any company or person to fail or refuse to comply with its provisions.

Matthews, Scott and Jernagin claimed that the statute was invalid as to interstate passengers and, therefore inapplicable to them, and that they had contracted with the railroad for specified seats in specified cars.

"It is now clear that their contention regarding the invalidity of the statute is correct," the appellate court declared, appending to its opinion a note reading as follows:

"That question has been settled by Morgan v. Virginia, 14 U.S.L. Week 4395 (U.S. 1946). The decision of the case at bar was withheld by this court pending that decision, as the writ of certiorari was granted in that case shortly after this case was argued. We see no valid distinction between segregation in buses and in railroad cars."

The decision of the case turned on an instruction of the trial judge that the burden of proving that the police officer at Lynchburg acted on behalf of the railroad was on the plaintiffs and that if the jury found that he, in requiring the plaintiffs to leave the train, was acting solely as a police officer and not wholly or partly as an agent for the railroad, they should return a verdict for the railroad.

The opinion, delivered by Associate Justice E. Barrett Prettyman, declared that "It was not necessary that the policeman be the agent of the railroad company in order that the company be liable. The court, therefore, erred in telling the jury that if it is found that the police officer was not acting wholly or partly as an agent of the defendant, the verdict must be for defendant."

Justice Prettyman said that because the controversy concerning agency ran persistently through the entire course of the case, "we think the error was substantial and reversible."

Justice Bennett Champ Clark dissented. "In my opinion the facts in this case justified the instruction on the agency question," he said. "I do not think the instruction unnecessarily limited the jury in its deliberation, and feel that their determination should be upheld."

The case was remanded to the District Court for further trail. On its original trial, a jury returned a verdict for the railroad.

Attorneys George E. C. Hayes, James A. Cobb and Leon A. Ransom represented the plaintiffs.

Court Outlaws Jim Crow School Defender

Chicago, Ill.

California Liberals Hit Appeal On Rule

Sat. 12-7-46

LOS ANGELES—In a straightforward legal move which may rock the foundation of Jim Crow education throughout the country, the American Jewish Congress branch here filed a "friend of the Court" brief in the U.S. Appeals court on the case of Westminster School board vs. Mendez, an action involving segregation of Latin-Americans.

The American Jewish Congress action followed the appeal of Orange County school board officials from a District court ruling that segregation of children of Latin descent into separate schools is a violation of the 14th amendment. The Congress brief argues that segregation regardless of equality of facilities is un-constitutional, supporting the lower court decision.

Bias Upheld Since 1896

Since 1896 Jim Crow state laws have been upheld where equal facilities were provided. The Jewish Congress brief strikes directly at the doctrine of "Separate but equal facilities." It states that such decisions have transformed community sanctioned inferiority to legally sanctioned political inequality.

Besides the effect such a decision will have on California Jim Crow, if the case is appealed and upheld before the U. S. Supreme court, it can sharply affect the Jim Crow education policy practiced in Southern states. Leaders in the fight including the local NAACP branch, and the Mexican community predict that a sustained decision will be a long step toward outlawing other Jim Crow laws.

Citing legal and sociological arguments the brief charges that segregation is inconsistent with the UN charter, and the anti-prejudice resolution accompanying the Act of Chapultepec. Segregation of children of recent immigrants is contrary to the federal naturalization policy, the brief continues.

Denotes Inferiority

The argument presented by the Congress holds that segregation of minorities is predicated on assumptions of superiority or inferiority. It cites cases where Southern courts have awarded damages to whites written of or spoken of as Negroes. Supporting its contention with sociological and psychological documents, the brief demonstrates that official sanction of prejudice perpetuates prejudice.

The congress pointed out that segregation harms both the minority group and the dominant group. The point was also made that in 1896, in the case, Plessy vs. Ferguson, the U.S. Supreme court ruled in favor of segregation on the basis that legal separation did not imply inferiority of Negroes. The present brief maintains that the only distinction between groups is to denote inferiority and superiority.

The United States Supreme Court

The Courier, Pittsburgh, Pa. Sat. 6-15-46

The Irene Morgan case, which wipes out segregation in transportation across State lines, has again attracted attention to the contributions which the United States Supreme Court is making to racial progress and to the democratization of our country. There has been a flood of decisions by this Court within the last seven years that has swept away barriers which have restricted and confined Negroes in almost all phases of life.

The pay of Negro public school teachers must be equal to that of white teachers.

Negroes must be accepted for jury duty.

A fair and just trial must be given Negro defendants.

A racial minority is protected from the prejudice and avarice of bargaining labor unions.

A State must give equal educational opportunities and facilities to all of its citizens.

Negroes are permitted to vote in Southern Democratic primaries.

These are but a few of the Supreme Court's pronouncements in recent years that have wiped out old landmarks and precedents which have served for more than seventy-five years to help keep Negroes "second-class" citizens.

Scholars and liberals have always been of the opinion that the Federal Constitution, if fairly and impartially interpreted, gives Negroes adequate and complete protection and redress against the most malignant forms of prejudice and discrimination. The difficulty has always been to get a Supreme Court which is truly imbued with the spirit of that document and that has the courage to wipe out old legal precedents to which the rights of Negroes have been tied. Old Supreme Courts always pretended to be helpless to aid Negroes when persecuted by local laws and officials. They took refuge behind "State Rights" and used this legalism to perpetuate prejudice and discrimination based on color. All sorts of injustices to Negroes were ignored or palliated. For more than a quarter of a century, this very Court, which, according to our Constitution, was designed to be the bulwark of the peoples' rights and liberties, was, in fact, the greatest Governmental agency for the oppression of and injustice to Negroes.

The masses of Negroes and many other minorities have been apparently unaware of the direct effect the Supreme Court has on their status and well-being. This, however, has not been true of the great vested interests of our country, which for years controlled appointments to this Court. Most of its members in the past have been noted corporation attorneys. It has only been during the last eight years that many of its members were formerly law professors and had therefore come from the liberal environment of the classroom with minds unwarped by corporation fees. The greatest and most lasting contribution the "New Deal" has made to the Nation may be the character of its appointees to the Supreme Court, who are redefining the social, civic and political rights of Negroes and other minorities.

Although the masses of Negroes did not recognize that the United States Supreme Court could be the most direct route to many of their rights and privileges, the NAACP made this its basic approach from the time it was first organized in 1909. Almost every law suit brought before the United States Supreme Court during the last thirty-five years involving the rights of Negroes was prosecuted by the NAACP through its Negro legal staff. The names of Charles Houston, William H. Hastie and Thurgood Marshall are attached to most of these proceedings. It is therefore gratifying that although these Supreme Court decisions must be attributed to a liberal court, they were nevertheless fought for with intelligence and courage by a small minority of Negroes through their own race organizations.

It is a sad reflection on the intelligence and political power of Negroes that nearly all racial gains made through Government are in a department whose officials are not selected by popular vote. Negroes have the balance of voting power in eleven States with an electoral vote of more than 266, and have the deciding vote in the election of seventy-five Congressmen. Yet, Congress has not passed a law intended to relieve Negroes of their inequalities for more than eighty years; and only one executive order has been issued by a President of the United States on behalf of Negroes in the same period. Where Negro strength is potentially the greatest, the score for racial advancement is lowest.

The recent decisions of the Supreme Court also expose the fallacy that peoples' attitude on human rights is controlled by their residence. Mr. Justice Hugo Black of Alabama is one of the most liberal members of the Court, while Mr. Justice Owen Roberts of Pennsylvania dissented in the Texas Primary case, and Mr. Justice Harold Burton of Ohio dissented in the Irene Morgan or Virginia Bus case. That is why it is most difficult to know whether to oppose or accept President Truman's appointment of Hon. Fred M. Vinson of Kentucky to Chief Justice.

Although we are pleased with the results from the decision in the Irene Morgan case, we would have preferred that the majority opinion of the Court be based on the principle urged by the NAACP attorneys that "jim crowism is at odds with a national policy that opposed all racial discrimination." If this had been the basis of the decision, it would have outlawed segregation wherever Federal courts have jurisdiction.

There are still intolerable racial conditions that can be rooted out by a just and socially conscious Supreme Court. Negroes are still forced to live in ghettos by restrictive covenants and other contemptible devices which prevent normal residential expansion. Negroes are being lynched and the culprits are immune from Federal trial and punishment. Southern States are spending twenty times the amount for the public education of a white child, to what is spent on the education of a Negro. A thousand racial inequalities are practiced where there is segregation and that part of the Fourteenth Amendment which states " . . . nor deny to any person within its jurisdiction the equal protection of the law" is openly flaunted.

The Supreme Court will not have discharged its full duty to the Negro citizenry until it has declared illegal every law, agreement and practice, which sets Negroes apart from other citizens. We are encouraged by recent favorable decisions, but our eyes are upon the goal of an America without racial distinction, and this victory the Supreme Court can materially hasten.

THE SUPREME COURT DECISION

The Defender Chicago, Ill.

Old Man Jim Crow was rocked by a resounding right hook to the chin but was not down for the count when the United States Supreme Court, last week, decided 6 to 1 against racial segregation of interstate passengers.

The ruling was handed down on the appeal of Miss Irene Morgan who was fined $10 by a Virginia Court for refusing to sit in a segregated section of a bus during a trip from Gloucester County, Va., to Baltimore, Md.

Mr. Justice Stanley Reed, delivering the opinion, stated: *Sat. 6-15-46* "As there is no federal act dealing with the separation of races in interstate transportation we must decide the validity of this Virginia Statute on the challenge that it interfers with commerce, as a matter of balance between the exercise of the local police power and the need for national uniformity in the regulations for interstate travel. It seems clear to us that seating arrangements for the different races in interstate motor travel require a single, uniform rule to promote and protect national travel, consequently, we hold the Virginia statute in controversy invalid."

Technically, however, the court did not pass on Jim Crowism per se. It held that because of an undue burden on interstate commerce the Virginia's statute compelling racial segregation of interstate passengers was unconstitutional.

The Supreme Court has never faced squarely major issues involving equal rights. It has skillfully skirted all great constitutional questions whenever the Negro was the point at issue.

Only Justice Harold Hitz Burton of Cleveland, Ohio, passionately dissented from the opinion of the other six Justices. It is singular and distressing that such a dissent should come from Justice Burton whose own state was one of the 18 states pointed out by the majority opinion which prohibited racial separation on public carriers. Only 10 states require racial separation on carriers. They are Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Texas and Oklahoma.

Wrote Justice Burton in his caustic dissent:

"It is a fundamental concept of our Constitution that where conditions are diverse the solution of problems arising out of them may well come through the application of diversified treatment matching the diversified needs as determined by our local governments. Uniformity of treatment is appropriate where a substantial uniformity of conditions exists."

It is clear that Justice Burton, the lone Republican on the court, was pleading for the continued existence of racial segregation of interstate passengers. As a former member of the House of Representatives of Ohio; and Mayor of Cleveland, Mr. Justice Burton's position on Virginia's statute must have created a stir of resentment among progressive Republicans. Fortunately, Justice Burton was not able to influence the opinion of the other members of the Court. Although the decision does not give us a clear-cut one who was three times Republican victory over Jim Crowism, it does, however, represent by inference a substantial enlargement of the citizenship status of the American Negro.

The decision in the Irene Morgan case may retrieve the other southern states from the morass of racial segregation into which they have sunk so deeply and for so long.

Railroad Co. Ordered to Pay

The Afro-American
Baltimore, Md. Sat. 10-12-46

$500,000 to Dining Car Men

LOS ANGELES—In a recent verdict confirmed by the U.S. District Court of Northern California, the Southern Pacific Co. has been ordered to pay an award involving between $500,000 and $750,000 to members of the West Coast Dining Car Union.

The verdict was rendered by Federal Judge Louis E. Goodman, and allows the company 20 days in which to determine the amount coming to each of its employees, with the back pay due to be distributed the latter part of this week.

The Join Council of Dining Car Employees, locals 456 and 582, AFL, and Bertram Hicks brought charges against the Southern Pacific for asserted illegal meal and lodging deductions since 1941. Possibilities that the company may appeal the case are considered remote.

But Guardians of Nation

The Afro-American
Baltimore, Md.

Keep Noses to Grindstone

Supreme Court Post Termed Enviable One; Bilbo Question Moot; FBI Probing Everything

Sat. 11-30-46

By OLLIE STEWART

WASHINGTON

Have you been to Washington lately? If you haven't, you should, go for, despite all the uncomplimentary things that may be said about the city on the Potomac, it is still your nation's capital.

The last time I spent more than a day in Washington was back in 1942 when the city was more crowded than a night club dance floor, and war hysteria had the natives seeing Nazi spies in their sleep.

Overcrowded bureaus were operating in any building that had a roof—and some of the people who got in line for a sandwich at noon, wound up getting roast beef and mashed potatoes at the dinner hour.

Well, the capital is not so crowded now. With a fistful of folding money, I am now able to get a whole room by myself—where before I had to pay two bucks to sleep in a bed with another guy, and listen to the snores of four other birds in two other beds in the same room with ours.

Nation's Highest Court

Everybody who can read or has sense enough to get into trouble has heard, at one time or another, about the Supreme Court.

This is the highest court in the land, and can change any decision in the country—except that of certain white people who have made up their minds that colored people shall not eat in the same restaurant, sit in the same coach or work for the same salary, as white people.

Your favorite newspaper, the AFRO, sent me to the Supreme Court a few days ago. Just to show you how much at home I am around there, I walked in with a newspaper under my arm—and got stopped near the door by a policeman who apologized but very firmly grabbed the paper out of my hands.

Better to Read Than Sleep

I'm still wondering whether it wouldn't be more fitting to read the sports page in court than to take a nap when some lawyer, trying to earn his country club dues, gets his mouth wound up and forgets to turn it off.

Anyway, I breezed in and took a front seat, just before the doors were closed at 12 noon, which is when the Nine Old Men start their day's work.

The first thing they did, after they sat down, and we sat down, was to announce their decisions on cases that had previously been argued.

Then they swore in 10 or 12 lawyers, all white, who had been accepted to plead cases before the Supreme Court. Then they listened to new cases.

An Enviable Position

Except for listening to a lot of talk, I think I'd kinda like to be a Supreme Court justice. I noticed one or two, in their chairs that swing around, rock and look extremely comfortable, close their eyes and rest their chins on elbows. I wouldn't say they were asleep, but I know I certainly would have had no trouble sleeping in such relaxed position.

All the Justices wore glasses except Justice Douglas. Justice Jackson and Justice Frankfurter asked the most questions of the lawyers—and Chief Justice Vinson had such a bad cough he frequently made it difficult to hear what was being said. Another Justice ate gum drops.

Time Out for Lunch

You don't smoke in the court chamber, and the seats are definitely uncomfortable. The sergeant-at-arms sits in a swivel chair and keeps turning all the time to see that nobody does anything he shouldn't.

Exactly at two, even though the lawyer is halfway through a sentence, a man bangs a gavel and announces that it is time for lunch. A half hour is allowed for everybody to replenish the inner man..

I trooped downstairs and stood in line for 20 minutes, then grabbed some soup and crackers and hustled over to a table.

About one-third of the customers were colored—many of whom came from other Government offices nearby. Colored girls and boys worked behind the self-service counter.

Getting the Dope on Bilbo

Just to prove to my boss that I keep on the move and visit all the important people in Washington, I went next to the Senate building to get some hot dope on Bilbo. I didn't go to Bilbo's office, for reasons you may well imagine.

Instead, I went in and had a nice chat with Senator Mead's secretary, since the Senator is chairman of the sub-committee which is trying to prove that Bilbo did, or did not, accept money from war contractors.

The secretary wouldn't talk, so I was forced to go to the door of room 357 and sit on the marble floor for two hours with a dozen white men and women reporters.

We Wait in Vain

The reason we didn't open the door and go in and sit down like sensible people was this: The door was locked. This was what is known as a closed session.

Well, as most things will, the meeting finally broke up and the big people came out with their lips pressed tighter together than the tips of a clothes pin.

We scrambled up off the floor and surrounded them and got the following electrifying announcement:

"We have nothing to say."

Checking Up on FBI

By the time I recovered from this "interesting experience," as most folks like to describe a reporter's work, I found myself on a trolley car bound for Ninth and Constitution—where the FBI crouches in a beautiful building and waits for somebody to get kidnaped or lynched, or for the President to go fishing.

High up on the building it says, "Justice Department." Down below, at eye level. it says FBI.

A cop sits at a desk at each entrance, but he doesn't stop you unless you are carrying a bulky package. All he did was stab me with a look that went all the way through.

Another Pentagon

You go in and promptly get lost. I wouldn't for a moment say that the Justice building is huge, but you could easily run a 100-yard dash down any of its corridors, or hold a five-mile marathon without geting around to all the wings.

If a criminal ever got loose and turned a corner, it might easily take a couple of months to search all the rooms and closets.

Elevator operators are colored women.

The Civil Rights section is scattered on two floors. Some clerks are working out in the corridor, and everybody's desk is piled high with documents.

It seems that all over the country some person is always taking advantage of somebody else, and at least the injured parties write in a complaint to the Justice Department.

Each Complaint Investigated

You wonder how they ever get around to half the problems. The attorneys and their investigators will admit frankly that no matter how hard they work, they can never keep up.

I gained increased respect for this department in less than an hour. Lynchings in Georgia, terrorism in Louisana, general hell-raising in Mississippi—all these things seem far away as you sit in these well-appointed offices and read letters and reports. You wonder why people don't try getting along with one another once in a while.

Sat 11-30-46

But no matter what you think about results, you can be assured that every complaint of a civil rights violation that comes in is investigated.

High Court OKs Puerto Rican Land Program

Defender
Chicago, Ill.
Sat. 11-23-46

Ruling Points Way For Virgin Islands Home, Farm Project

(Defender Washington Bureau)

WASHINGTON — By refusing to hear an appeal from the Eastern Sugar associates, Puerto Rican sugar trust, the U. S. Supreme Court last week upheld the right of the Puerto Rican government to seize monopoly land holdings for small farms and homesites for natives setting a precedent for the Virgin Islands, where Gov. Hastie is faced with a similar monopoly situation.

The high court action signals the end of the vicious land monopoly which for years has held an economic strangle hold on the island. Five years ago the Puerto Rican legislature set up a land authority to condemn big estates, to be resold for farms of from five to twenty acres. Quarter acre lots were authorized for homesites. Buyers were to be granted 40 years to pay.

Seize 3,000 Acres

The authority was also granted power to lease farms of from 50 to 100 acres. Under the program, the government seized 3000 acres owned by Eastern Sugar Associates, an American trust. The company fought the case to the Supreme Court, where the appeal was denied. The high tribunal stated it saw no reason to interfere with the Circuit Court ruling.

The high court stand is significant for the Virgin Islands, where efforts to build public facilities for islanders at St. Thomas have been blocked by refusal of land czars to sell to the government at reasonable prices. The St. Thomas proposal was aimed at setting up a resort center to help put the territory on a self-sustaining basis. Plans for large scale housing developments and individual homesites suffered a similar setback.

Chief among the island's six major land holders is Herbert Lockhart, Gov. Hastie's father-in-law, who has been quoted as selling land for homesites at $1,000 per acre.

Defender

The St. Thomas Municipal Council appointed Vladimar Hill tax assessor more than a year ago, to reassess values of island property. More recently, a proposal to assess property at the value of the highest bid was defeated.

Turn Land To Grazing

In St. Croix, where land lends itself to farming, valuable areas are being used for cattle grazing, with only the U. S. government and a few cane producers engaged in large scale farming. Landowners are charged with exploiting farm lands in an effort to force the return of the 25 cent daily wage for cane workers.

Chicago, Ill.

Farm Security Administration efforts to take over an estate which had defaulted a debt to the U. S., for redistribution as homesites, was blocked by the St. Croix Municipal Council. Although the local council was overruled by the island's legislature, Harry Taylor, government administrator, reportedly advised against seizure.

Sat. 11-23-46

NATIONAL ROUNDUP

Court Refuses Columbia Probe

Defender
Chicago, Ill.
Sat. 12-7-46

ALBANY, N. Y.—Columbia University, charged by the Non-Sectarian Anti-Nazi League of New York with religious and racial discrimination, continued exempt from New York City taxes recently when the Court of Appeals refused to review lower court dismissal of charges brought against the famous school. The City Tax Commission had refused to act on league charges that Columbia discriminated for religious and racial reasons in its admittance of students, and was upheld by the Supreme Court Justice McNally and the Appellate Division.

Ed 1946

TENNESSEE ASKS CONVICTION OKEH

Birmingham Ala. Age Herald

WASHINGTAON, Feb. 7—(AP)—An assistant attorney general of Tennessee told the Supreme Court today that if it failed to uphold the conviction of a Memphis man on a charge of procuring the murder of his wife, the state asked that it also set aside the conviction of a Negro convicted of the crime.

The request was made by Nat Tipton, Nashville, fighting for a second time before the high court an appeal on behalf of E. E. Ashcraft, Memphis drag line operator, and John Ware, the Negro accused of killing Mrs. Ware. Her body was found in a ditch near her home June 5, 1941. 2-8-46

On an appeal from the second trial the Supreme Court held that the manner in which Ashcraft was questioned by the staff of Dist. Atty. Gen. Will Gerber had deprived him of his constitutional rights. It reversed his case and sent that of Ware back for further consideration.

Tipton said today that if Ware were convicted of the murder there was enough evidence to show Ashcraft was an accessory, without using evidence obtained while he was in the hands of the officers.

But, Tipton said, if Ashcraft were not convicted, the state did not want the verdict to stand against Ware.

Arguing for the defendants Attys. James F. Bickers and Grover N. McCormick insisted that the third conviction of the men was on the same evidence to which the Supreme Court had objected before. 2-8-46

Bickers said the only evidence not used this time was an unsigned confession attributed to Ashcraft. This time, he said, they used a confession attributed to Ware.

Disregard of Court Order Held Contempt in 1906

The Afro-American Baltimore, Md. Sat. 12-7-46

Ruling After Death of Reprieved Prisoner Made Authority, Not Jurisdiction, the Issue

By LOUIS LAUTIER

WASHINGTON—(NNPA)—As strange as it may appear, the Federal Government is relying chiefly upon a decision of the United States Supreme Court 40 years ago, in the lynching of a colored man, to have John L. Lewis and the United Mine Workers of America adjudged in contempt of court for failing to obey a restraining order.

Briefly stated, the facts are:

On Nov. 15, Mr. Lewis notified Secretary of the Interior J. A. Krug of the termination of the contract between the Government and the UMW.

The miners' rule is "no contract, no work." Upon the expiration of the five-day notice, the strike of 400,000 soft coal miners, white and colored, became automatic.

Restraining Order Disobeyed

On Nov. 18 the Government obtained a restraining order directing Mr. Lewis and the UMW to withdraw the notice terminating the so-called Krug-Lewis agreement. Mr. Lewis and the UMW failed to obey the restraining order.

Mr. Lewis and the union were cited to show cause why they should not be adjudged in contempt. When they appeared in the District Court before Justice Goldsborough, their lawyers indicated that their defense would be that the court lacked jurisdiction to issue the order.

Lynched Despite Court Order

The brief filed by the Government cited as a precedent for finding Mr. Lewis in contempt the case in which a Tennessee sheriff conspired with a mob which lynched a prisoner after the Supreme Court had ordered all proceedings against him stayed.

The pisoner, a man named Johnson, was convicted of criminal assault of a white woman by a criminal court in Hamilton County (Chattanooga), Tenn., on Feb. 11, 1906, and sentenced to death.

On March 3, 1906, he filed a petition for a writ of habeas corpus to the United States Circuit Court of Appeals, charging that he had been deprived of various Constitutional rights and was about to be deprived of his life without due process of law.

Specifically he charged that colored people had been excluded illegally from the trial juries, that his lawyer had been deterred from pleading that fact or challenging the jury on that ground and from asking for a change of venue or continuance to guarantee a fair trial and let the danger of mob violence subside.

Given 10-Day Stay

The petition was denied on March 10, 1906, and it was ordered that Johnson be remanded to the custody of the Hamilton County sheriff, to be detained by him for a period of 10 days so that he could prosecute an appeal.

In default of the prosecution of the appeal within that time, the sentence of death was to be carried out.

On March 17 an appeal to the Supreme Court was allowed by Justice John M. Harlan, and on March 19 the Supreme Court ordered formally that all proceedings against Johnson be stayed.

The Hamilton County sheriff was notified by telegraph of the order and the evening papers of Chattanooga published a full account of the Supreme Court's action.

Guard Withdrawn

Although the sheriff had been informed, and had reason to believe, that an attempt would be made that night by a mob to lynch Johnson, he withdrew the customary guard from the jail early in the evening and left only the night jailer in charge.

Subsequently, it was charged the sheriff and many others unknown conspired to break into the jail to lynch Johnson, with intent to show contempt for the Supreme Court and to prevent it from hearing Johnson's appeal.

In furtherance of this conspiracy, the mob broke into the jail took Johnson out and lynched him. The sheriff and the jailer pretended to do their duty, but really sympathized with and abetted the mob.

Jurisdiction Not the Issue

Despite charges that the Supreme Court had no jurisdiction over an appeal from the Circuit Court order denying the petition, the conspiracy, as well as the final acts of the lynchers, was held as contempt.

In an opinion written by the late Justice Oliver Wendell Holmes, the Supreme Court pointed out that until its judgment declining jurisd;ction was announced it had authority to make orders to preserve existing conditions and that a lawful disregard of those orders constituted contempt. 12-7-46

Held Reliable Precedent

The court said further that it was unable to agree that the grounds upon which the habeas corpus petition was presented were frivolous or a mere pretense. "The murder of the petitioner has made it impossible to decide that case," Justice Holmes added.

On the basis of this decision, the Government contends in the contempt proceedings against Lewis and the UMW that the District Court had power to issue the temporary restraining order.

In addition, it says, the Court has corresponding power and jurisdiction to compel enforcement and punish Lewis and the UMW for wilfully failing or refusing to comply with such an order.

Lovett Wins

Harpers Concord N.H.

Just a few days after Milton Mayer's article on Dr. Robert Morss Lovett went to press, the Supreme Court (not noted these days for unanimity of opinion) handed down a unanimous decision that Dr. Lovett and two other government employees had been the victims of unconstitutional behavior on the part of Congress. Martin Dies, by screaming "irresponsible, unrepresentative, crackpot, radical bureaucrats," had persuaded Congress to include in a rider to an appropriations bill (as Mr. Mayer's article explains) a prohibition on payment of salaries to Dr. Lovett and two other men. The Court has now declared that this rider was a "bill of attainder," which according to the Court's definition is "a legislative act which inflicts punishment without judicial trial." July, 1946

Justice Black, who gave the Court's decision, explained that a bill of attainder not only violates the Bill of Rights but is barred by the Constitution. "As much as we regret to declare that an act of Congress violates the Constitution," he said, "we have no alternative here."

15d 1946

Civil Liberties Upheld

New Republic

MANY NEWSPAPERS were so pleased with the Supreme Court's decision upholding freedom of the press in the Miami *Herald* case that they failed to emphasize two far more important decisions handed down on the same day (June 3). These were the outlawing of Jim Crowism in interstate bus transportation and the ruling that Congress passed an unconstitutional Bill of Attainder when it forbade government salary payments to three victims of Dies Committee witch-hunting—Robert Morss Lovett, Goodwin B. Watson and William E. Dodd Jr. The opinion of Acting Chief Justice Hugo L. Black in this last case stands out as one of the most courageous and incisive defenses of civil liberties that has come from the court in a generation.

As the issues were presented to the court, the Virginia Jim Crow case did not involve civil liberties at all. Irene Morgan, a Negro woman, was arrested and convicted for refusing to move into a section set apart for colored people when her interstate bus entered Virginia. Her lawyers made the sole argument to the Supreme Court that this requirement of Virginia law imposed an "undue burden" on interstate commerce and conspicuously refrained from basing their case on the "due-process-of-law" requirement of the Fourteenth Amendment. Had they done so, and won, they would have knocked out Jim Crowism on intrastate buses and street cars. Since they raised only the issue of interstate commerce, the decision applies only to interstate passengers. The "due-process" issue probably was left out of the case for strategic reasons. This gives significance to the actions of Justices Rutledge and Black, who concurred without joining in Reed's opinion and thus seemed to be inviting a future test of the validity of Jim Crowism in local transportation.

Mr. Justice Burton's dissent in this case is one more disappointment to those who expected this "liberal" Ohio Republican to measure up to the imperatives of civil-liberty defense. He did, however, stand behind Mr. Justice Black (also a former Senator) in protest against the congressional attempt to revive Bills of Attainder. 6-17-46

Mr. Justice Black's opinion in the Lovett-Watson-Dodd case cuts with penetrating sharpness to the core of congressional fascism. A Bill of Attainder—punishment by a legislative act without a judicial trial—comes to life in this opinion. It is no longer a meaningless, antique phrase in school history books, but the punitive instrument of intolerant, hate-filled congressmen working under the lash of Martin Dies. Mr. Justice Black does not denounce, unless the recitation of fascistic phrases from the *Congressional Record* is denunciation. He uses cold, sharp logic to dissect the specious argument of the opposition that the law forbidding salary payments to the three named government employees is not punitive, but merely a regulation regarding the disbursing of money; that it does not bar them from government employment, since they can still be employed (by any department head who is willing to defy Congress) and sue for their salaries in the Court of Claims. These amazing arguments, advanced by special counsel for Congress, were indorsed in the separate opinion of Mr. Justice Frankfurter, who contended that the salary prohibition could not be a Bill of Attainder because President Roosevelt signed the war-appropriation bill to which it was a rider. Since the President had no desire to punish the three men, it could not be said that the law had such an intent according to his line of reasoning. Frankfurter neglected to mention that Roosevelt was forced to sign the bill in order to carry on the war and publicly denounced the rider as unconstitutional.

cannot well be expected to violate its laws. In disapproving the bid, he must instruct the War Assets Corporation to accept proposals from other concerns whose histories do not show evidence of acts inimical to the growth of a steel industry in the West and which are not open to the charge of being national monopolies.

Invisible Congress: Marjorie Shearon

Much of Missouri Senator Forrest C. Donnell's fiery opposition to the Wagner-Murray-Dingell national-health bill can be credited to a demure, gray-haired little lady who sits next to him during committee hearings and quietly slips him charts and sheaves of documents and whispers suggestions as to how to fight the measure.

She is Dr. Marjorie Shearon and has the distinction of holding down two jobs: she's on the payroll of the Republican National Committee as a "research analyst" and, at the suggestion of Senator Robert Taft of Ohio, she also acts as a sort of research adviser on social-security matters to Republican Senators. Taft hasn't been back to the Senate Education and Labor Committee since Chairman Murray threatened to have him thrown out bodily, but since that day Dr. Shearon hasn't missed a session. The docile-looking lady lobbyist usually wears a blue suit and a frilly blouse, but she gives the spectators the feeling that she's minority leader of the opposition group as she takes notes on the hearings and passes material to Donnell.

Her wiles turn to wrath when she speaks of the health bill—"We don't want to live in a Hitler universe, and that's what this bill would give us." The GOP has not gone on record officially as being opposed to the health bill, although Republican Senators have taken the lead in denouncing the measure. Dr. Shearon, as the party representative, has now clarified their stand.

Supreme Court History

Animosities Date From Inception of Court, It Is Held

Times New York

The writer of the following letter is head of the History Department at Admiral Farragut Academy. N. Y.

6-19-46

TO THE EDITOR OF THE NEW YORK TIMES:

The present feud between the two Supreme Court justices is unfortunate, but it is not an example of a new spirit that has been injected into the court. The controversy is merely the latest in a series of disaffections from the dignity and prestige of the court which began in the Washington administration.

Prior to the appointment of John Marshall as Chief Justice in 1800, the Government and people treated the court with scant respect. John Jay, while Chief Justice, engaged in two campaigns for the Governorship of New York, and was sent to England to negotiate the famous Jay Treaty. After Jay's retirement to become the Governor of New York, John Rutledge, an associate justice, solicited the office for himself in such a manner that some of his friends felt he had gone quite mad.

In the election of 1800 the Federalists were defeated by Jefferson's democratic Republicans. The subsequent "lame duck" Congress, controlled by the Federalists passed the Judiciary Act creating twenty-three unnecessary Federal judicial districts. The defeated John Adams hurriedly filled them with members of his own party. It was out of this Federalist attempt to keep control of one branch of the Government that the famous Marbury vs. Madison case developed. Thus John Marshall and the court were given the opportunity to issue the first declaration citing an act of Congress as unconstitutional.

Political Expediency

The appointment of Roger B. Taney to the Chief Justiceship by Jackson seems to be another example of political expediency. Jackson's attitude toward the Supreme Court is embodied in his determination to support the Constitution as he understood it, not as outsiders understood it.

Taney as a States' rights man and a Marylander was very sympathetic to slavery and one of the anomalies of Supreme Court history is that he remained Chief Justice throughout the Civil War despite his advocacy of the Confederacy. It was undoubtedly due to these prejudices that he acquiesced to the pressure of political expediency, exerted by President Buchanan, in formulating the famous Dred Scott decision of 1857.

A parallel to the feud between Andrew Jackson and John Marshall is found in Lincoln's attitude toward Taney. Lincoln made no secret of his purpose to reorganize the court. He could never sympathize with Taney because of his Dred Scott decision.

The number of the justices in the Supreme Court, originally six, was increased to nine by 1837 and has remained at that figure since, except for fluctuations between 1867 and 1873.

Judges Increased

When Andrew Johnson succeeded to the Presidency upon the death of Lincoln the number of Supreme Court justices was the same sacred nine as we have today but the death of two justices left a court of seven. The relations between Johnson and the Congress were not unlike those of Truman and Congress today. In order to prevent the unpopular Johnson from following the time honored custom of appointing men generally sympathetic with his policies, Congress passed legislation limiting the membership of the Supreme Court to seven. The end in view was to preclude the possibility of having their Reconstruction plan called unconstitutional in whole or part.

This truncated court was short-lived since its 4-3 decision pronouncing the unconstitutionality of the Legal Tender Act in 1870 brought it into conflict with the policies of the Grant Administration. Congress reconstituted the nine-man bench and Grant backed the court with the appointment of Bradley and Strong, both earnest party men. The case was reopened and, in 1871, the new court reversed the decision by a 5-4 vote.

Theodore Roosevelt had his battles with the court over the Anti-Trust Act. The packing of the court or attacks

upon the court in these administrations were the result of the court's adherence to the traditions of the past at a time when the people, the President and Congress were expanding our democracy. The political expedience which prompted these attacks and motivated the reorganization is understandable on the ground that the President felt he was striving to achieve what the people wanted and the Supreme Court was hindering.

The basic weaknesses of the Supreme Court can be overcome and the dignity which it should command be upheld by an amendment to the Constitution establishing the number of justices at nine and requiring all court decisions be based on a two-third vote.

FRANK SHAW GUY.

Pine Beach, N. J., June 18, 1946.

EASTLAND'S ATTACK ON BLACK

Senator Jim Eastland, of Mississippi, has tried very hard to out-Bilbo his senior colleague. It is not to his credit to say that he has done very well at it.

Now Senator Eastland, in company with Republican Senator Bridges, of New Hampshire, steps forward with a proposed Constitutional Amendment that establishes without further question his right to sit on equal terms beside his ignoble companion.

Republican Bridges and pseudo-Democrat Eastland propose that we adopt an amendment limiting the number of justices a single President can appoint to three. Not only do they suggest this plan for the future—they want it retroactive, so as to force the retirement of Justices Douglas, Murphy, Jackson and Rutledge.

The Eastland-Bridges plan for filling vacancies above three in a single President's tenure is the most touching of all. They would have the House, each state delegation voting as a unit, select justices from the lower courts. When a new President is elected, Eastland would have the House-chosen justices step down and be replaced by Presidential appointments.

The suggested amendment is not likely to win favor except among those who, like Eastland and Bridges, de to tear down the humanitarian concep f government which Franklin D. Roos lt so well. Most Americans are wil. ust their President with the respon. of Court appointments. Certainly the record of Congress in recent months—its unwilling ness to deal with the vital needs of draft.. extension and price control—is nothing to encourage the entrustment of new responsibilities to its tender mercies.

The obvious conclusion is that Eastland and his Republican ally are trying one more way of overpowering Hugo Black. Under their plan, President Truman would name one of the four judges, and the House would name three. With four new appointments it might be assumed that Justice Black would find himself in the minority.

Many Alabamians have found it difficult to keep pace with the rampant liberalism of their native son on the High Court, yet most of the people in this state are proud of Black's stern, unrelenting fight against the forces of greed and monopoly, whether met in the Senate or in the Supreme Court.

When the present storm broke over his head, some of his friends were disappointed to read no statement from Black in defense of his Court performance. They wondered how he could remain silent in the face of such a tirade.

But now they understand. The man stands his ground without words. His character and his record are the rock of his citadel. And the flimsy scheme of this Democratic-Republican combine will be stopped by that rock just as was the hysterical onslaught of Justice Jackson.

HIGH COURT ERRED; IT LETS NEGRO LIVE

Meant to Say It Would Rule on Louisiana Plea Against Second Trip to Chair

WASHINGTON, June 11 (AP)—The Supreme Court today admitted error and said it would rule on whether Willie Francis, 18-year-old Louisiana Negro, should be sent to the electric chair a second time.

A court official announced to reporters that an error was made in the listing of the court's order in the case yesterday. That order said the petition filed on behalf of Francis had been denied.

Actually the court will hear argument in the new term in October on the plea of Francis that he should not be placed in jeopardy of his life a second time for the same offense. The plea said this would be cruel and unusual punishment.

Francis went to a portable electric chair last month, but he escaped death because of mechanical failure.

The Supreme Court has issued a ...y of execution which will remain in effect until it rules finally ... case.

...ancis was convicted of killing Andrew Thomas, a druggist of St. Martinville, La., during a robbery.

Youth "Praying Pretty Hard"

ST. MARTINVILLE, La., June 11 (AP)—Willie Francis was "praying pretty hard" in his cell here today for the Lord to spare him a second trip to the electric chair.

[This was before he learned the Supreme Court had given him another chance.]

"I'm not nervous," he said. "I won't be afraid to go to the chair again. But tell the folks I'm still praying mighty hard. The Lord might still save me."

$2.00 PER ANNUM

Supreme Court Hands Down Decision Againt Segregation On Interstate Transportation

State Officials React Cautiously On Ruling

In a 6-1 decision, the Supreme Court has said that the Virginia "Jim Crow" law imposes an undue burden on Interstate Commerce and is therefore unconstitutional. The ruling brushed aside Virginia's statute requiring segregation of negroes on interstate buses.

Dissenting, Justice Burton said that on Monday's precedent similar laws in nine other southern states, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Texas and Oklahoma, COULD BE held invalid.

Likewise, Burton asserted, validity of laws of 18 states which prohibit racial segregation could be challenged since "they differ sharply from laws on the same subject" in other parts of the country.

Justice Reed's majority opinion on the Virginia "Jim Crow" checked the matter to congress by concluding: "It seems clear to us that seating arrangements for the different races in interstate motor travel require a single, uniform rule to promote and protect national travel."

While concurring with the majority decision, Justice Frankfurter objected to any single rule. Frankfurter contended ——that 'congress may devise a national policy with due regard to varying interests of different regions."

State officials reacted cautiously concerning the ruling. Matt L. McWhorter, vice chairman of the Georgia Public Service Commission, said that the federal laws will prevail in traffic between the states and that the segregation laws as passed by the General Assembly will apply to intrastate traffic.

Both state and bus line officials said that they hoped that the better class of whites and negroes would work together to prevent any possible disturbances on the busses.

The 6-1 decision brings to national attention a ruling which is closely affiliated with questions that are regarded as paramount issues of Georgia's political campaigns.

U.S. Court Upholds 1928 Murder Sentence

WASHINGTON, D. C.—The 9... year sentence for murder meted out 18 years ago in an Illinois court to a Negro prisoner, tried without a lawyer having been appointed for him, was upheld last week by the U. S. Supreme court.

With no other jurist of recent times are the issues that have emerged from our economic development so clearly drawn or so sharply presented. In this interplay of dynamic forces the late Chief Justice Stone often found himself in the thick of every battle involving important issues of statecraft. His name has therefore taken on in the reaching issues. This accounts public mind implications in the realm for his being ranged on the side of social policy as well as in that of angels by the liberals, while the judicial opinion. servatives place him on a lower l...

HARLAN F. STONE:

The power of judicial review of legislative acts and administrative decisions is, in substance, the core of judicial authority. And the exercise of that power by the United States Supreme Court has made it not only the world's most powerful court, but the focal point of our bitterest political

15d 1946

High Court May Get Negro Voting Case

MONTGOMERY, Ala., Sept. 21—(AP)—The U. S. Supreme Court may be the next tribunal to rule on a Negro vote suit against the Macon County (Alabama) Board of Registrars.

U. S. District Judge C. B. Kennamer, who upheld a state motion to dismiss the case when it first came before him last October, was presented yesterday with a petition for a writ of certiorari.

The writ, filed in behalf of the registrants, is aimed at overturning an Appellate Court's ruling that the case be reopened before Judge Kennamer.

Asst. Atty. Gen. W. W. Callahan said the petition, if granted, would cause the records in the case to be sent to the U. S. Supreme Court.

William P. Mitchell, a Macon County Negro, filed the suit. He said he was prevented from registering as a voter solely because of "race, color and previous condition of servitude," and asked $5,000 and a permanent injunction against the board.

Holding that the plaintiff had not exhausted his rights under the State Court, Judge Kennamer dismissed the suit, but the U. S. Circuit Court of Appeals at New Orleans reversed the decision and remanded the case to the lower tribunal.

High Court Bars 'White Primary'

The Worker New York

By Federated Press

WASHINGTON (FP).—The so-called "white primary" is going to remain a condemned and illegal process as far as the U. S. Supreme Court is concerned.

Having overturned the "white supremacy" law of Texas two years ago, the court this week upheld the right of Negroes to vote in Georgia's Democratic primaries. *Jun 4-7-46*

A federal district court in Atlanta ruled that a Georgia law limiting voting in primary elections to qualify white voters was in violation of the 15th amendment to the U. S. constitution.

Georgia election officials took the case to the Supreme Court on a contention that the state has a right "to confine the right of suffrage in the primaries to white citizens."

By refusing to review the lower court's decision, the Supreme Court said in effect that the lower decision was correct.

The case originated in the July 4, 1944, Georgia Democratic primary, when election officials barred Primus E. King a Negro, from casting his ballot under the Georgia statute.

Sen. Richard B. Russell (D-Ga) said that in view of the high court decision, the next step, if any is taken, will come from the state's Democratic committee and the legislature.

HIGH COURT BACKS GEORGIA UNIT RULE

The Times New York, N. Y.

Six-to-Three Decision Upholds County System and Sustains Talmadge Victory

By LEWIS H. WOOD

Special to THE NEW YORK TIMES.

WASHINGTON, Oct. 28—The county unit rule governing primary elections in Georgia was upheld today by the United States Supreme Court. The tribunal dismissed two protests against the system. The Justices were divided on the issue, six to three.

One of the rejected lawsuits was an effort to upset the Democratic primary nomination of Eugene Talmadge as Governor, through the unit plan, although he was behind James V. Carmichael in the popular vote. The other was a demand to declare Mrs. Helen Douglas Mankin the primary choice for Atlanta Representative, because she headed the popular ballot although losing in the unit vote to James C. Davis. *Tues.*

Brief Order Voids Appeals

Technically, the Supreme Court declined to assume jurisdiction of the cases over the protests of Justices Hugo L. Black, Frank Murphy and Wiley Rutledge, all of whom indicated that arguments should be first heard. The tribunal's action was taken through a brief order dismissing the appeals, and directing dismissal of the suits by a three-judge Federal Court which had upheld the unit plan, as not violating equal rights of voters.

The highest court did not explain its course, except that it cited as precedent a 17-year-old decision in which an issue was held moot. Officials gave the view that the high tribunal felt it had been asked to issue injunctions against something which had already happened, namely the Democratic primary of July 17. *10-29-46*

In another electoral situation, the court refused to rehear a case in which, by four to three, on June 10, it rejected efforts of three Chicago voters to compel re-apportionment of the Congressional districts in Illinois.

Rutledge Gives His Views

Justices Black and Murphy merely said they thought the court should note jurisdiction in the Georgia cases, but Justice Rutledge was more explicit. Holding the issues "obviously important," he said that they had not been "conclusively adjudicated" by prior Supreme Court decisions. He wished them argued, and to have the Illinois case heard at the same time.

Three voters had attacked the Georgia County Unit system as "grossly and purposely" discriminating against them after their ballots were cast. The plan, they added, made their votes only "fractionally effective" and violated the Fourteenth Amendment to the Constitution, guaranteeing equal rights.

Under the Georgia law, heavily populated counties are entitled to six unit votes; the medium populated, to four, and all counties have a minimum of two. In the 159 counties, there is a total of 410 votes, making it necessary for a successful candidate to win 206. However, 242 votes can be garnered from the thinly-settled counties.

Governor Talmadge won in the primary because he got 242 unit votes from 105 counties, while Mr. Carmichael had only 146 from forty-four counties. Some of these forty-four had large cities such as Atlanta (Fulton County) within their lines. Former Gov. E. D. Rivers won twenty-two unit votes from ten counties, while Hoke O'Kelley had none.

Talmadge Lost in Popular Vote

The popular vote, however, was: Carmichael 313,389; Talmadge 297,245; Rivers 69,489; O'Kelley 11,758.

As an example of their protests, the Georgia voters noted that Fulton County, in which is Atlanta, and De Kalb, containing Decatur, have respective populations of 392,886 and 86,942 but are entitled to only six unit votes. Quitman and Echols Counties, on the other hand, with populations of 3,435 and 2,964, each have two votes.

In seeking a rehearing of the Illinois case, the three voters asked that all nine Justices participate. Due to the death of former Chief Justice Harlan F. Stone, and the absence of Justice Robert H. Jackson, only seven sat last June.

Justice Felix Frankfurter wrote the majority opinion then refusing the re-districting. He was joined by Justices Wiley Rutledge, Stanley Reed and Harold H. Burton. In the minority were Justices Hugo L. Black, William O. Douglas and Frank Murphy.

At the time, the majority held that the courts should not become involved in "the politics of the people." The reconsideration refused today was sought by Kenneth W. Colegrove of Northwestern University, Kenneth C. Sears of the University of Chicago and Peter J. Chamales, a lawyer.

THE SUPREME COURT AND GEORGIA VOTE SYSTEM

Defender Chicago, Ill.

In a 6 to 3 decision, the United States Supreme Court last week upheld the nomination of Eugene Talmadge as Governor of Georgia. The question of the validity of Georgia's unit vote system came to the high court as the result of an election of that state in which the opposing candidate, James V. Carmichael, piled up an overwhelming total popular vote in the July 16 primary election and yet was defeated. *Sat.*

While the decision of the court was disappointing, it was nevertheless understandable for it appears that Georgia's voting system is not at variance with the provision of the state's constitution. There is no doubt that the system carries with it the necessary legality to sustain its existence before the court, it is nevertheless in contradistinction to the basic premises of government by the people and for the people. Unfortunately, what is legal may not always be logical, though some type of spurious reasoning can always be invoked in the defense of any legal theory. *11-9-46*

When a minority of electorates can elect a candidate to office against the expressed popular will, there is an obvious breakdown of democratic processes.

It is a dangerous precedent if such a custom were to prevail in all the states of the union. Democracy would become over night a thing of the past. For, such a condition not only vitiates democratic doctrine but actually clears the ground for the rise of an oppressive oligarchy.

Democracy is grounded on the theory that the state governs by the will of the majority. Any transgression of that principle is a transgression of the rights of the people. So gross a departure from our traditions is dangerous and the Supreme Court of the United States should be the first body to recognize the social and political dangers inherent in such a practice.

Race Views Of Vinson, New Chief Justice, Vague

The Defender Chicago, Ill. Sat. 6-15-46

(Defender Washington Bureau)

WASHINGTON — Fred M. Vinson, 56-year-old Kentuckian who will become 13th Chief Justice of the U. S. Supreme Court when the Senate confirms his nomination, is practically an unknown quantity as far as his views on race are concerned.

He is vaguely described by prominent Negroes here as a "middle of the road liberal," "practical liberal," and "a New Dealer but not an extremist."

Examination of his five-year record as an associate justice of the District of Columbia U. S. Court of Appeals shows no significant decision giving a clue to his views.

His previous record as a member of the House of Representatives leaves the question still in darkness.

Republicans have been among those lauding Vinson most highly. Justice James Cobb described Vinson as "a sound lawyer, a middle of the road liberal."

Doubt was expressed by Dean George Johnson of the Howard University Law School, who said he was a little disturbed about the description of Vinson as "a practical liberal."

Also in doubt is Vinson's basic legal alignment. From the 100-odd decisions he wrote while on the District Appeals bench from 1938 to 1943 only two conclusions can be drawn:

1. He is a strong advocate of the view that it is the function Congress to make the laws, of the courts merely to interpret. This view narrows considerably the power of the court in national affairs.

2. He has great respect for precedent and consequently for the common law.

President Truman's appointment of Vinson is said to have been shaped largely by a desire to achieve harmony in the high court. Since the court has been sitting with eight members, because of Justice Jackson's absence at the Nuernberg war crimes trials, 60 per cent of decisions have been deadlocks.

Vinson will be the third Kentucky-born court member, since Justices Stanley Reed and Wiley Rutledge are from that state. The appointment raises the Democratic majority to 8 to 1.

Attorney's Ku Klux Complaint Rejected

The Constitution Atlanta, Ga. Tues. 10-15-46

WASHINGTON, Oct. 14—(AP)—The Supreme Court Monday refused to review the complaint of a Jewish attorney that because of the Ku Klux Klan he was deprived of the right to practice his profession in Georgia.

The attorney, Bernard M. Shotkin, in a petition requesting a review, said he was granted a license to practice by Judge Paul S. Etheridge of the Superior Court, Atlanta Circuit.

Afterward the license was cancelled, he said, without notice to him. He fought the cancellation in Georgia courts, but was unsuccessful. Shotkin gave his present address as 1356 Newton Street, Denver.

U. S. Turns Down Negro Vote Case

The Constitution Atlanta, Ga. Tues. 10-15-46

WASHINGTON, Oct. 14—(AP)—The Supreme Court Monday declined to review litigation in which a Negro charged registrars of Macon County, Alabama, refused to register him and others of his race as electors.

The Negro, William P. Mitchell, first asked the U. S. District Court to direct that Negroes be permitted to register. He also asked $5,000 damages from the registrars. The District Court dismissed his case, but the U. S. Circuit Court in New Orleans reversed the decision and ordered the case to proceed in the District Court.

The registrars then appealed unsuccessfully to the Supreme Court. They contended the Circuit Court was wrong in holding, among other things, that "the Federal Government has acquired jurisdiction to supervise the right to vote in the State."

The Supreme Court's action has the effect of sending the case on to the District Court.

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U. S. Supreme Court Votes Six to One

Virginia Segregation Law On Buses Unconstitutional

The Courier Pittsburgh, Pa. Sat 6-8-46

By JOHN H. YOUNG III, Washington Correspondent

WASHINGTON—The United States Supreme Court Monday declared the Virginia segregation law on buses unconstitutional by a vote of six to one, with only Justice Harold Burton dissenting. Justice Burton is President Truman's newest appointee to the Supreme Court. He is a former Senator from Ohio. The decision means that a State cannot require segregation of white and Negro passengers in buses crossing State lines. The decision was given on an appeal by Mrs. Irene Morgan, who had been turned down on a similar appeal by the Virginia Supreme Court. The case grew out of an incident in which Mrs. Morgan was fined $10 because she refused to change seats at the request of the driver of a Greyhound bus traveling from Norfolk, Va., to Baltimore, Md.

Thurgood Marshall, NAACP attorney, pleaded the case before the Supreme Court sometime ago and the decision was made Monday. This decision causes debate as to whether or not the same rule will apply to interstate travel on railroads. It is expected that with this decision, favorably reported by the Supreme Court, the NAACP will immediately file such cases relative to railroad and interstate travel.

WASHINGTON ROU

Supreme Court Has High Score on Liberal Issues

The Afro-American Baltimore, Md.
Sat. 8-10-46

By RALPH MATTHEWS
(AFRO National Bureau)

While there has been much speculation concerning the trend the U.S. Supreme Court will take on liberal issues since the appointment of Fred Vinson, a review of decisions reveals that the existing court has a high box score toward liberalism.

The appointment admittedly was the outgrowth of a feud between Justices Jackson and Black and was intended to bring harmony out of divergent factions growing out of conflicting interpretations of the law.

Justices Jackson and Black, both Roosevelt appointees, apparently disagreed on interpretations following the death of the President with Black hewing to the New Deal Line and Jackson toward conservatism.

So far as the race is concerned, the appraisal of the Supreme Court is based on its performance in handing down decisions which advance the struggle for civil and human liberties.

On this score, the present Court (the Roosevelt appointees) has a good batting average.

Voting Rights Redefined

The momentous decision handed down and one which has almost revolutionized the political pattern of the South was that made in the Texas primary case in 1944.

The decision also opened the way for the participation of colored voters in the primaries in Mississippi and Georgia.

While the Texas primary ruling was the torch to the white supremacy citadel, the Georgia primary case (Chapman vs. King) was also a contributing factor and was accumulative.

Travel J.C. Crushed

Equally far-reaching was the now famous Irene Morgan case, which gave a death blow to jim crow travel on interstate busses.

This decision, when proper means of implementation are devised, will also have a far reaching effect on the social and economic pattern of the South.

It is believed in legal circles that only a test case is necessary to extend the provisions to railroads and other means of transportation. Afro-American

R.R. Brotherhoods Scored

Another significant decision affecting the economic status of railway workers was made in the cases of Tunstall vs. the Brotherhood of Locomotive Firemen and Engineers, and Steel vs. Louisville and Nashville Railway Co.

Both cases, pressed by Attorney Charles H. Houston and decided in 1944, were aimed at the discriminatory practices of R.R. unions which would have eventually eliminated colored labor from this major industry. Baltimore, Md.

The court ruled that Brotherhoods which refuse to admit colored members could not bargain on their behalf or sign agreements excluding them from work.

The court also handed down a favorable decision in the case of the Railway Mail Association vs. Corsi in 1945 where it upheld the application of the Civil Rights Act of the State of New York to the mail association, a labor union.

Restriction on Cops Refused

On the debit side, however, was the Screws vs. United States decision in 1945, in which the court redefined the law applicable in prosecution against police officers for violations of civil rights.

In this case the court ruled that there must be a showing that there was a definite intent on the part of the police officer o deprive the individual of his Constitutional rights before there can be a conviction for violation of the civil rights statute.

This decision, according to NAACP spokesmen, has made it more difficult to convict officers for brutality against colored citizens. Sat. 8 10 46

Covenants Not Abolished

In refusing to grant a writ of certiorari, the Supreme Court also gave a reprieve to the controversal restrictive covenant issue in the case of Clara Mays vs. Burgess.

This means that a new technique must be devised before this evil can be eradicated.

In spite of the latter adverse decisions ,it is the consensus of legal opinion that the present court has been far more liberal than the far-reaching of their decisions rather than the number of cases acted upon.

High Court Splits On State Rights

Defender Chicago, Ill.
Sat. 11-9-46

(Defender Washington Bureau)

WASHINGTON — The sharp division which the United States Supreme Court can be expected to follow generally on cases involving race was pointed up last week in the Georgia unit vote decision, with Chief Justice Vinson leaning to the "right" in support of State control.

The Chief Justice, it appears will vote with such ardent State's righters as Justice Frankfurter and Jackson. This leaves Justices Rutledge and Black in the minority.

Splitting 6-3 in this significant decision on whether to do anything about the Georgia election that gave James V. Carmichael the most votes, and Eugene Talmadge the governorship, the majority, Chief Justice Vinson, and Justices Reed, Frankfurter, Douglas, Jackson and Burton said, in effect, that the election was all over and the court could do nothing about it.

Justices Black and Murphy fa-

Court Won't Rule On Registrar Case

WASHINGTON, Oct. 14.—(AP)—The Supreme Court today declined to review litigation in which a Negro charged registrars of Macon county, Alabama, refused to register him and others of his race as electors.

The Negro, William P. Mitchell, first asked the U. S. district court to direct that Negroes be permitted to register. He also asked $5,000 in damages from the registrars. The district court dismissed his case, but the U. S. circuit court in New Orleans reversed the decision and ordered the case to proceed in the district court.

The registrars then appealed unsuccessfully to the Supreme Court. They contended the circuit court was wrong in holding, among other things, that "the federal government has acquired jurisdiction to supervise the right to vote in the state."

The Supreme Court's action has the effect of sending the case on to the district court.

BILBO BAN REFUSED BY SUPREME COURT

The Times

New Yorker's Plea for Denial to Senate Fails—Charge of War Contribution Weighed

New York, N.Y.

WASHINGTON, Oct. 14 (AP)—The Supreme Court today rejected a request that it bar Senator Theodore G. Bilbo, Democrat, of Mississippi, from his Senate seat.

The request was made by James L. P. Rumble, 421 Tenth Avenue, New York City, who told the court that Senator Bilbo had deprived Mississippi citizens of the right to vote because of their "color and racial origins."

The application noted that the Constitution made each house of Congress the judge of the qualifications of its members. Mr. Rumble added that the Constitution "has not clothed either of the Houses with power of being the exclusive judges of the elections of members." Tues. 10-15-46

The court merely noted that Mr. Rumble's petition was denied and gave no reason.

Francis D. Flanagan, assistant counsel of the Senate War Investigating Committee, said today that the committee was investigating allegations that Senator Bilbo received a $25,000 campaign contribution from a war contractor.

Senator Ferguson, Republican, of Michigan, a member of the Senate group, previously had said an inquiry was under way but did not disclose its nature.

Mr. Flanagan did not supply details in telling a reporter about the investigation.

Ross Collins, who unsuccessfully opposed Mr. Bilbo in the Mississippi Democratic Senatorial primary, had charged during the campaign that Mr. Bilbo accepted $25,000 from a war contractor.

The application noted that the Constitution makes each house of Congress the judge of the qualifications of its members. Rumble added that the Constitution "has not clothed either of the houses with power of being the exclusive judges of the elections of members."

The Court merely noted that Rumble's petition was denied and gave no reason.

ATTEMPT TO UNSEAT BILBO FAILS AS SUPREME COURT SNUBS PLEA

The Courier Pittsburgh, Pa. Tues. 10-15-46

WASHINGTON, Oct. 14—(AP)—The Supreme Court Monday rejected a request that it bar Sen. Bilbo, Democrat, Mississippi, from his Senate seat.

The request was made by James L. P. Rumble, New York City, who told the Court that Bilbo had deprived Mississippi citizens of the right to vote because of their "color and racial origins."

15d 1946

Justice Department Accepts As Settled Negro Voting Issue

Birmingham News, Ala.

WASHINGTON, April 6—(AP)—The Justice Department has accepted the Negro voting issue as definitely settled and in the future will prosecute any official who attempts to prevent a person from voting because of color.

In announcing the new policy yesterday, Solicitor General Howard J. McGrath told a press conference there is "no doubt" that recent court decisions upholding Negro suffrage apply to local and general primaries and elections in all states.

McGrath said "it is our position that the law has been settled" and pointed out that persons who illegally deny voting privileges are subject to a criminal code penalty of $1,000 fine or a year in prison.

All test cases heretofore have been brought as civil actions. The U. S. Supreme Court held in a Texas case that a person could not be denied the right to participate in a Democratic party primary because of color. Last week, the court refused to review a similar decision by the Fifth Circuit Court of Appeals in New Orleans in a Georgia case. *Sat. 4-6-46*

"It is hoped," McGrath said, "that everyone will abide by the spirit of the courts' decisions."

Texas University Bar Conditional

Afro-American, Baltimore, Md.

AUSTIN, Tex.—The University of Texas can deny admittance to a colored applicant only if the State offers the course he desires within its borders, Attorney General Gover Sellers ruled on Mar. 16.

The decision had been requested by T. S. Painter, acting president of the university, after Heman M. Sweatt of Houston applied for admission to its school of law. *Sat 3-23-46*

Citing the Missouri case in which the Supreme Court ruled that a State must provide equal facilities within the tSate for all of its citizens, Mr. Sellers said that the establishment of law training at Prairie View College, the State-owned school for colored persons, is mandatory.

Ultimatum Given

Although the State is not expected to maintain in idleness facilities for teaching desired courses, he added, as soon as there is a demand, Prairie View must install the facilities or the University of Texas must open its doors.

Following the Missouri decision in 1941, the Texas legislature passed a bill authorizing the establishment at Prairie View College of professional courses or of any ohter courses, equal to those taught at the University of Texas.

Previously, Texas had circumvented the Constitutional provision providing equal privileges to all of its citizens by sending colored students to Northern schools. However, the Missouri ruling decreed that such practice was unconstitutional.

Supreme Court Upholds Right of Negroes To Vote in Georgia Democratic Primaries

New York Times, N. Y.

Tues 4-2-46

WASHINGTON, April 1 (UP)—The Supreme Court today upheld the right of Negroes to vote in Georgia Democratic primaries.

The court, which ruled two years ago that Texas Negroes could not be legally barred from suffrage, refused to review a lower court decision that a Georgia statute limiting primary voting to qualified whites violated the Fifteenth Amendment to the Constitution.

Gene Talmadge, former Governor of Georgia, and Speaker Roy Harris of the State Legislature have been demanding that Governor Ellis Arnall call a special legislative session to enact measures to ensure continued "white supremacy." They had anticipated the decision.

Governor Arnall, who was in Washington, refused to comment.

Senator Richard B. Russell, Democrat, of Georgia, said it was up to the State Democratic Committee and General Assembly to decide whether anything further should be done for the "protection of the white primary."

The case involved Primus E. King, a Negro, who was barred from casting a ballot in the July 4, 1944, primary under Georgia law.

Three Georgia election officials—Joseph E. Chapman Jr., H. C. Smith and W. E. Swinson—conceded in a petition asking the Supreme Court to review the case that King was not permitted to vote "solely because he was of the colored or Negro race."

They said the question involved was "of great importance, not only to the Negroes but to the petitioners here and hundreds of others situated similarly." They added: "They are honestly and sincerely of the opinion that they have a right to confine the right of suffrage in primaries to white citizens.

"If they are justified in their belief, this highest tribunal should say so. If they are wrong in their belief, this highest tribunal should say so.

"The question should be freed of every atom of uncertainty."

They recommended that the court act speedily because 1946 is an election year.

King brought suit in the United States district court for middle Georgia for $100 damages.

The district court held that his right to vote was unconstitutionally withheld. Its findings were upheld on March 6 by the Fifth Circuit Court of Appeals.

Black Stays Execution Of Louisiana Negro

Advertiser, Montgomery, Ala.

WASHINGTON, June 4.—(AP)—Justice Hugo Black of the Supreme Court today ordered a stay of execution for Willie Francis, 18-year-old Negro who survived one trip to Louisiana's electric chair. *6-5-46*

Francis went to that portable electric chair a month ago, but a mechanical failure prevented his execution. He was convicted of killing a St. Martinville, La., druggist during robbery. The Louisiana Pardon Board yesterday refused to commute the death sentence to life imprisonment.

Counsel for Francis then filed a petition with the Supreme Court asking that it intervene in the case. Justice Black later granted a stay pending the high court's final action on another petition which requests the tribunal to review all proceedings in the case. This petition is now on file with the court. *Wed. 6-5-46*

Supreme Court Rules Negroes Have Right to Vote in Primaries

Daily Worker, New York, N. Y.

Tues 4-2-46

WASHINGTON, April 1 (UP).—The Supreme Court today upheld the right of Negroes to vote in Georgia Democratic primaries.

The court, which ruled two years ago that Texas Negroes could not legally be barred from suffrage, refused to review a lower court decision that a Georgia statute limiting primary voting to qualified whites violates the 15th Amendment to the Constitution.

Ex-Gov. Gene Talmadge, of Georgia, and Speaker Roy Harris, of the State Legislature, have been demanding that Gov. Ellis Arnall call a special legislative session to enact measures to ensure continued "white supremacy." They had anticipated the decision.

Arnall refused to comment. It was understood he would discuss the matter when he returns to Atlanta.

Sen. Richard B. Russell (D-Ga) said it was up to the State Democratic Committee and General Assembly to decide whether anything further should be done for the "protection of the white primary."

In the words of three Georgia election officials, the Supreme Court removed the last "atom of uncertainty" that the State law unconstitutionally deprived Primus E. King, a Negro, of his right to vote by denying him the privilege of casting a ballot in the July 4, 1944, primary. *Tues 4-2-46*

The officials conceded in a petition asking the high court to review the case that King was not permitted to vote "solely because he was of the colored or Negro race."

They said the question involved was "of great importance, not only to the Negroes, but to the petitioners here and hundreds of others situated similarly."

King brought suit in the U. S. District Court of Middle Georgia for $100 damages on grounds that his voting right was guaranteed by the 15th Amendment, which says that no citizen's rights shall be abridged because of race or color.

The District Court held that his right to vote was unconstitutionally withheld. Its findings were upheld on March 6 by the Fifth Circuit Court of Appeals.

CAPITOL SPOTLIGHT

By LOUIS LAUTIER

(For NNPA)

Atlanta Daily World

Supreme Court

THE IMPORTANCE OF the Supreme Court in the fight for race equality is not to be minimized. Its position has been strategic ever since Chief Justice Roger T. Taney delivered the opinion in the Dred Scott case declaring that a Negro had no rights that a white man was bound to respect.

That decision was reversed on the battle fields of the Civil War, and since then the court itself has moved a long way in protecting the rights and liberties of colored people under the Thirteenth, Fourteenth, and Fifteenth Amendments to the Federal Constitution. *Wed. 5-8-46*

The Chief Justice of the court, like the associate justice, has only one vote on any case before it. He is its chief administrative officer. It is as much to the interest of colored people to exert their efforts toward the appointment of a fair and impartial Chief Justice as it is for them to exert themselves toward having liberal associate justices.

On the basis of the record, elevation by President Truman of Justice Robert H. Jackson to be Chief Justice is to be preferred over Justice William O. Douglas.

SCREWS CASE

Justice Douglas wrote the opinion in the Screws case, reversing the conviction of three Georgia law enforcement officers for beating to death a colored lad. The officers were charged with violation of a section of the federal civil rights law, which originated in the so-called Ku Klux Act, and which punishes anyone, acting under color of state law, who wilfully deprives any persons of life without due process of law.

Justice Douglas concluded that the statute had to be set aside for vagueness. Justice Owen J. Roberts, Felix Frankfurter, Frank Murphy, and Jackson dissented.

Justice Jackson wrote the opinion in the Pollock peonage case, declaring unconstitutional a Florida statute which made it a misdemeanor to induce advances of money with intent to defraud by a promise to perform labor, and which made failure to perform labor for which money had been obtained prima facie evidence of intent to defraud.

From the standpoint of colored people, the vacancy on the Supreme Court bench could not be better filled than by the selection of Secretary of War Robert P. Patterson.

Judge Patterson has not been solely responsible for the advances made by colored personnel in the Army, but he shares the credit for those advances with former Secretary of War and the selection of Bill Hastie to be the first civilian aide. In those days, the Army had a rigid policy of segregation, colored combat units were unarmed, and a belief prevailed within the Army that colored men could be used effectively only in service units.

Hastie testified that while Patterson did not always agree with him, he was always sympathetic.

EASTLAND CHARGE

When Senator James O. Eastland and other demagogues were charging the conduct and performance of colored troops in the European theater of operations were disgraceful, Mr. Patterson, then the Under Secretary of War, was told at a press conference that a Senator had stated on the Senate floor that "'High ranking generals' had told him on a recent overseas trip that 'Negro troops would neither work nor fight'" and was asked whether these statements were true.

"No," replied Patterson. "If any high ranking general has made such a statement, I have no knowledge of it."

That was a polite way of calling Eastland a liar, which isn't done by Cabinet officers who have political ambitions to serve.

Judge John J. Parker, of North Carolina, senior judge of the Fourth United States Circuit Court of Appeals, also has been mentioned for the vacancy. Pres. Hoover nominated Judge Parker for the Supreme Court, but the nomination was rejected after organized labor and the National Association for the Advancement of Colored People made a fight against him on the basis of his attitude toward colored people and organized labor. *Wed. 5-8-46*

Supreme Court Opens Way to Ballot For Negroes in Georgia's Primary

Atlanta Constitution, Ga.

Georgia, a Deep South State with a heavy Negro population and no poll tax, was told by the Supreme Court yesterday the minority race can vote in its "white primary" this fall.

The effect amounted to that when the court declined to review lower federal court rulings that Negroes are entitled to vote in the Georgia Democratic primaries—the actual elections.

The Supreme Court gave no reason for its refusal to review the Georgia case, but two years ago, in a similar case from Texas, the court upheld the right of Negroes to vote in the primaries.

In view of the Texas decision, Georgia politicians frankly did not expect the High Court to act otherwise but they wanted the court to rule, one way or the other, before the fall primaries.

Gov. Arnall declined immediate comment on the Supreme Court's refusal to consider the litigation.

"That does not mean I will not have any comment, but there will be none until I have read the court's opinion," he told a reporter. "Right now I am tied up on freight rates, but I hope to get back to it (the court's decision) soon."

Tues 4-2-46

The decision heightened the prospect that Georgia will become the first Deep South state with a large Negro population and no poll tax to witness the mass suffrage of Negroes.

Other "Black Belt" states either have a poll tax or other voting restrictions or have found a way to get around the decision of the Supreme Court.

In South Carolina, all laws relating to the primary have been stripped from the statute books, and the primaries are unregulated by the state.

Georgia admittedly made a move in the same direction last summer when it adopted a new constitution leaving out all mention of primaries.

To get around the Supreme Court decision, Georgia politicians admit they would have to scrap a law which permits a county unit system of voting and gives political dominance to small rural counties.

They admit the Legislature would never do this.

An alternative has been suggested by gallus-snapping Gene Talmadge whose regime in Georgia was broken three years ago by young Gov. Arnall, and who is regarded as a candidate for governor again this fall.

Talmadge suggests that the State Democratic Executive Committee which makes the rules governing the Democratic primary, meet and adopt the county unit system as part of its machinery.

Then, he says, the Legislature could meet and scrap the law. However, Gov. Arnall — constitutionally barred from a second term—has shown no indication he is inclined to do this.

The issue of Negro suffrage and the prospect of a red hot gubernatorial campaign has brought about unprecedented registration in Georgia in recent months. Any number of organizations are behind the movement.

HEAVY VOTE SEEN

Three hundred thousand is a good primary vote in Georgia. But political observers predict the figure may be exceeded several times. An estimated half-million new voters have come along since the last gubernatorial primary.

Georgia three years ago lowered the voting age to 18, and last year repealed the poll tax. Gov. Arnall, youngest governor in the country, led the fight for both changes.

In the last few months, Negroes have voted for the first time in several municipal primaries. In Athens and Valdosta they voted in relatively small number.

However, recently in Brunswick and Glynn County a campaign was made to register Negroes and whites alike. The charge of discrimination in their registration was not raised.

Ordinarily 2,000 is a good turnout of voters in the coastal county. Yet last month a total of 6,512 voted. There were 2,400 Negroes alone registered and nearly all voted.

Tues 4-2-46

A complete new county commission was elected in the primary.

The white population outnumbers the Negro population about two to one in Georgia. In 46 of the 159 counties, however, the Negro population is heavier.

Supreme court denies killer's plea

Tribune

WASHINGTON, D. C. — The Supreme court last week dismissed the review plea of Lee Van Woods, of Chicago, serving a 99-year prison term at Illinois state penitentiary for murder, on the grounds that he had failed to exhaust the remedies open to him in Illinois.

Sat 6-8-46

Woods claimed he was railroaded and sought release on writs of habeas corpus, contending that police extorted a confession from him and that he was not allowed to call witnesses in his behalf.

Unusual View

Constitution

Editor Constitution: The worst enemy the white people of America have today is the Supreme Court. Why don't they abolish this troublemaker and make a buzzard roost out of the building? It would save us from the lowest form of degradation and from having a reign of terror in the South.

6-8-46 Atlanta Ga.

J. PHILLIPS.

Phenix City, Ala.

Mourn Chief Justice Stone As Friend Of Negro People

Chicago Defender, Ill.

5-4-46

By VERNICE SPRAGGS

WASHINGTON — When Chief Justice Harlan F. Stone died last week after 21 years of service on the United States Supreme Court, Negroes lost one who was considered one of their best friends in the high court.

Rising from a New England farm to the highest judicial post in the land, Chief Justice Stone wore alternately the labels "liberal" and "conservative."

Commenting on his sudden passing, Atty. Thurgood Marshall, special counsel for the NAACP, said, "He was one of the best judges on the court." Attorney Marshall has argued a considerable number of cases before the Supreme Court during Chief Justice Stone's term of office.

Marshall revealed that in every case which the NAACP has brought before the court with the exception of two, the Chief Justice has voted on the side favored by the NAACP.

Sat.

The two exceptions were: Corrigan vs. Buckley, a case involving restrictive covenants in the District of Columbia which was decided May 24, 1926, and dismissed by the Supreme Court for want of jurisdiction; and the case of Lyons vs. Oklahoma, a case involving a confession obtained under pressure. W. D. Lyons was convicted of murder in the local court of Hugo, Okla. His conviction was based on a "confession" signed after continuous questioning and beating. The Supreme Court by a six to three decision affirmed the conviction, with Chief Justice Stone voting with the majority.

Texas Primary Case

Perhaps one of the most momentous and far reaching decisions favoring the enforcement of civil rights for Negroes was the Texas primary case involving Smith vs. Allbright, decided April 3, 1944. This case was started in the local federal court of Houston, Texas, in 1941, as an action for damages and a declaratory judgment against the practice, custom and usage of refusing qualified Negro electors to vote in the Democratic primary elections in Texas.

In a review before the United States Supreme Court on June 7, 1943, the court overruled its former decision in the case of Grovey vs. Townsend and upheld the right of qualified Negroes to vote.

Another major decision involving the civil rights of Negroes in which Chief Justice Stone voted favorably with Associate Justice Douglas was the famous Screws case, which established the right of the federal government to intervene when the states or any agent thereof, acting under the color of law wilfully deprives any citizen of any established right. The action of the Supreme Court in this case, recently upheld in the case of Primus King, of Atlanta, Ga., who was prohibited from voting in Georgia primary elections, makes possible the prosecution under the criminal code of "any state or party official who attempts to prevent a person from voting because of color in a primary or general election."

Chicagoan's Praise

Chicago Atty. C. Francis Stradford delivered eloquent testimonial to the merits of the late justice, under whom he studied while a student at Columbia University School of Law.

"He never let color enter into the picture," declared Stradford. He was a sincere liberal and a Democrat in every sense of the word; a fellow of simple tastes, unpretentious even in his home. He was a perfect gentleman, always smooth and courteous. In the classroom his mind worked like a rapier on legal questions."

Stradford was a recipient of one of the numerous scholarships founded by Stone when he was dean of the Columbia Law School. Stone also recommended Stradford for a judicial position in the Virgin Islands, one of the first such posts for which a Negro was considered.

Chicago, Ill.

Other Decisions

Other cases voted favorable to the rights of Negroes by Chief Justice Stone are as follows:

Lane vs. Wilson, decided May 22, 1939. This case involved a statute passed by the state of Oklahoma which provided that all those who were already registered would remain qualified voters, but all others must register within 12 days or be forever barred from registering. Since all Negroes were prevented from registering prior to that time, they continued to be barred by the new act. In the Supreme Court, the Oklahoma statute was struck down as being unconstitutional.

Nixon vs. Herndon, decided March 7, 1927. This was the first Texas primary case. Dr. L. A. Nixon was refused the right to vote in a Texas primary election. Dr. Nixon filed suit for damages against the election officials who refused him. The suit was dismissed in the lower court and was taken to the Supreme Court where the decision was reversed.

Nixon vs. Condon, decided May 2, 1932. This was the second Texas primary case. Promptly after the decision in the first Texas primary case, the legislature of Texas passed a new statue empowering the state Democratic Committee to set up its own limitations on its primary.

Dr. Nixon was again refused the right to vote in the primary and brought an action for damages in the federal courts. The case was dismissed in the lower courts, but was reversed when it reached the Supreme Court.

Harmon vs. Tyler, decided in 1926, and Richmond vs. Deans, decided in 1930. These cases involved segregation.

Illinois Case

Hansberry vs. Lee, decided Nov. 12, 1940. The Supreme Court's opinion in this case was delivered by Chief Justice Stone who reversed a judgment rendered by the Illinois Supreme Court that Hansberry was bound by the decision in a previous case upholding a restrictive covenant against occupancy and use by Negroes of certain property in Chicago. The case was argued by Chicago attorneys.

Hollins vs. Oklahoma, decided in 1935. In this case involving the systematic exclusion of Negroes from jury service, the Supreme Court affirmed the principle that the conviction of a Negro by a jury from which all Negroes had been excluded was a denial of due process.

Sat

Hale vs. Kentucky, decided April 11, 1938. Joe Hale, indicted for murder in McCracken County, Ky., moved to have the indictment set aside on the grounds that the jury commissioners had excluded Negroes from the jury lists. He offered evidence that there never had been a Negro on the juries of that county from 1906 to 1936. Hale was convicted and sentenced to die. The decision was upset by the high court.

HARLAN STONE

15d 1946

Rights of Minority Upheld Generally by Late Chief Justice, 7 Cases Reveal

Baltimore, Md. Afro American

Jurist's Liberal Attitude Reflected in Opinions Involving Individual and Group Injustices

Sat 5-4-46

WASHINGTON (NNPA) — Of seven cases involving the rights of colored people, the late Chief Justice Harlan F. Stone, generally considered unpredictable on the Supreme Bench, voted favorably with the liberals, it has been found.

In many cases, it was learned, he voted with the liberals, Justice Hugo L. Black, William O. Douglas, Frank Murphy and Wiley B. Rutledge, while at other times he voted with the conservatives, Justices Owen J. Roberts, Felix Frankfurter, Robert Jackson and Stanley Reed.

Wrote R.R. Case Decision

Voting with the majority, he wrote the opinions in two companion cases brought by railroad firemen against the Brotherhood of Locomotive Firemen and Enginemen, in which the court ruled the brotherhood the representative of all employees.

In both cases, Justice Stone declared that under the Railway Labor Action, a labor organization, acting as the exclusive bargaining representative of a craft or class or railway employees must represent all employees without discrimination.

He also wrote the opinion in the Texas case in which the court overruled the conviction of Henry A. Hill for criminal assault, holding that systematic exclusion of colored persons from the jury violated Hill's constitutional rights.

Opposed Texas Vote Ban

In the Texas primary case, in which the court held that Texas Democrats could not bar colored electors from the party primaries, Chief Justice Stone voted with the majority, with Justice Frankfurter concurring and Justice Roberts dissenting. Sat 5-4-46

In addition, Chief Justice Stone joined the other justices in the case of former Rep. Arthur W. Mitchell of Chicago, who sued to set aside an Interstate Commerce Commission order upholding jim-crow travel facilities on the Illinois Central Railroad.

Held J.C. Tavel Illegal

Traveling from Chicago to Hot Springs, Mr. Mitchell was forced to leave the Pullman car and continue from Memphis in a jim-crow cal, although he held a first-class ticket and offered to pay for a seat.

Chief Justice Charles E. Hughes wrote the opinion holding that the discrimination was unjust and violated the Interstate Commerce Act. At that time, an associate justice, Mr. Stone voted with the other justices, making the decision unanimous.

Beating in Georgia Condemned

United States, decided May 7, 1945.

In the case of Screws Vs. the Chief Justice Stone concurred in the maporty opinion which held Screws, sheriff of Baker County, Ga., and two others guilty of violating the Federal Civil Rights Act.

Screws, a policeman and a speciay deputy were found guilty as a result of their fatal beating of Robert Hall, whom they had arrested o na warrant charging the theft of a tire.

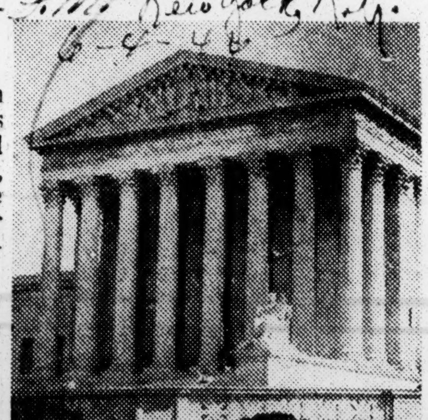
Dissented in Peonage Case

On the other hand, he joined in the dissenting opinion in a Florida peonage case which involved the sentencing of a man named Pollock for 60 days in the county jail for having obtained a $5 advance from the corporation on the promise to do some work, which he did nt do.

Although the majority opinion held that the sentence was violative of the 13th Amendment, Chief Justice Stone, concurring in the dissenting opinion of Justice Reed, held that the conviction resulted not in peonage but in punishment for crime.

Hats Off!

PM New York, N.Y. 6-4-46



PM takes off its hat today to the six associate justices of the United States Supreme Court who voted to rule Virginia's Jim Crow law on bus transportation unconstitutional. Justice Stanley F. Reed wrote the majority decision and was supported by Hugo L. Black, Felix Frankfurter, William O.

Willie Francis Doomed To Chair Second Time

Times-Dispatch

WASHINGTON, June 10—(UP)—The Supreme Court ruled today that Willie Francis, 17-year-old Negro slayer of Louisiana, must go to the electric chair for the second time. Tues. 6-4-46

The tribunal refused to consider the youth's plea for commutation of sentence because the State's defective electric chair failed to kill him the first time on the original death date last month.

Francis appealed after the Louisiana Board of Pardons turned down his plea and the State Supreme Court refused to intervene.

The youth's lawyer, James Skelly Wright, maintained that for Francis to be put to death now would be "cruel and inhuman" punishment and would place him in double jeopardy for a single crime. Richmond, Va.

Chair Fails Twice

Francis was condemned for shooting Andrew Thomas, a druggist, two years ago. He was scheduled to die May 3, but he was given a reprieve when the chair, because of defective wiring, twice failed to electrocute him on that date.

Wright said that the Martinsville, La., lad already had been through the "most grueling experience known to man." He added that a second attempt at electrocution would violate the Constitution.

High Court Orders Stay Of Execution for 'Willie'

Constitution, Atlanta, Ga. 6-5-46

WASHINGTON, June 4—(AP)—Justice Hugo Black, of the Supreme Court, Tuesday ordered a stay of execution for Willie Francis, 18-year-old Negro who survived one trip to Louisiana's electric chair.

Francis went to that portable electric chair a month ago, but a mechanical failure prevented his execution. He was convicted of killing a St. Martinville, La., druggist during robbbery. The Louisiana Pardon Board Monday refused to commute the death sentence to life imprisonment. Wed.

Counsel for Francis then filed a petition with the Supreme Court asking that it intervene in the case. Justice Black later granted a stay pending the high court's final action on another petition which requests the tribunal to review all proceedings in the case. This petition is now on file with the court.

Jim Crow Ruled Off Bus By U. S. Supreme Court

Constitution Atlanta, Ga. 6-4-46

WASHINGTON, June 3—(AP)—The Supreme Court Monday decided a state cannot require segregation of white and Negro passengers in buses crossing state lines.

The decision was given on a Negro's appeal from a Virginia Supreme Court ruling. The Virginia court upheld that State's Jim Crow law which requires bus drivers to segregate the races.

Justice Reed delivered the high tribunal's 6-1 decision.

Justice Bu ton wrote a dissenting opinion. Justices Black and Frankfurter delivered concurring opinions.

The appeal was filed by Irene Morgan, a Negro fined $10 because she refused to change seats on request of a Greyhound Bus driver. This bus was traveling from Norfolk to Baltimore. The woman was ejected and fined in the Circuit Court of Middlesex County, Va. 6-4-46

UNDUE BURDEN?

The Virginia Supreme Court said the law did not result in discrimination against whites or Negroes and did not violate the Federal Constitution.

Justice Reed held that the Virginia statute imposes an undue burden on interstate commerce.

"As there is no Federal act dealing with the separation of races in interstate transportation," he explained, "we must decide the validity of this Virginia statute on the challenge that it interferes with commerce, as a matter of balance between exercise of the local police power and the need for national uniformity in the regulations for interstate travel. Tuesday

"It seems clear to us that seating arrangements for the different races in interstate motor travel requires a single, uniform rule to promote and protect national travel."

RAIL QUESTION OPEN

The two opinions dealt with motor bus travel. They did not refer to possible effects of the majority decision on "Jim Crow" laws affecting railroad transportation.

Reed said that 18 states prohibit racial separation on public carriers. Ten require separation on motor carriers.

"Where uniformity is essential for the functioning of commerce, a state may not interpose its local regulation," he added.

Justice Burton, in his dissent, was unconvinced that the majority was right in assuming that "there exists today a requirement of a single uniform national rule o nthe subject." 6-4-46

WANT UNIFORMITY

Burton said he believed that "the inaction of Congress is an important indication that, in the opinion of Congress, this issue is better met without nationally uniform affirmative regulation than with it. . . . The fact that 18 States have prohibited in some degree racial separation in public carriers is important progress in the direction of uniformity. Atlanta

"The fact, however, that 10 States in some degree require some racial separation of passengers on motor carriers indicates a different appraisal by them of the needs and conditions in those areas than in others. The remaining 20 States have not gone equally far in either direction. Ga.

Burton said it was a fundamental cencept of the constitution "that where conditions are diverse the solution of problems arising out of them may well come through the application of diversified treatment matching the diversified needs as determined by our local governments."

Louisiana To Continue Segregation in Buses

BATON ROUGE, La., June 3—(AP)—Louisiana will continue to enforce its laws relating to segregation of races on buses and trains in intrastate commerce despite Monday's decision by the United States Supreme Court that such segregation in buses crossing State lines is legal, Clayton Coleman, Acting Secretary of the Louisiana Public Service Commission, declared Monday.

Louisiana's laws on segregation of the races in railway coaches and depots date from 1890 and 1894, Coleman said, and were extended to cover buses by a commission resolution in May 1939.

"Enforcement of the ban on race segregation in buses engaged in Interstate transportation is a matter under the jurisdiction of the Interstate Commerce Commission," the Secretary said, "but I can tell you that Louisiana's laws on segregation in buses in intrastate transportation will continue to be enforced." 6-4-46

THE SUPREME COURT HAS ONCE AGAIN tightened its noose around Jim Crow. In a recent six-to-one decision the court has invalidated a state statute requiring segregation of Negro passengers on interstate bus lines. The ruling was handed down on the appeal of Irene Morgan, a Negro woman, who was fined $10 by a Virginia court for refusing to sit in the segregated section of a bus during a trip from Gloucester County, Virginia, to Baltimore, Maryland. The majority opinion, written by Justice Stanley F. Reed, is based on the sensible premise that "seating arrangements for the different races in interstate motor travel require a single, uniform rule to promote and to protect national travel." The principle used to uphold this rule of expediency was the familiar doctrine that the states cannot impose their regulations on interstate traffic. While the decision does not, of course, invalidate Jim Crow regulations on intrastate bus travel, it makes the enforcement of such regulations almost impossible. For it will be exceedingly difficult for the bus companies to apply one rule to interstate and still another to intrastate travel. That most of the increasingly important interstate bus travel is controlled by the same large companies which dominate the intrastate traffic will only complicate to absurdity any attempt to retain Jim Crow regulations on local travel. In this as in other recent decisions involving minority rights, the Supreme Court has not only cleared the way for affirmative Congressional action but appears to have suggested the advisability of such action. What is needed in this instance, of course, is legislation prohibiting all forms of segregation in interstate air, train, and bus travel. The Morgan case represents still another significant victory for Negro rights won by William H. Hastie in the Supreme Court. While Mr. Hastie will make an excellent Governor of the Virgin Islands, his presence will be sorely missed in Washington.

THE SUPREME COURT ACTS

Without directly hitting the infamous "separate-but-equal" theory, the Supreme Court last week found that the jim crow statute of Virginia as applied to motor busses was an "undue burden on interstate commerce." The 6 to 1 decision was a victory, and the big gate to freedom for Southern Negroes was opened a little way. It has inspired in all of us the fond hope that the day will come when a black American will be treated as a full citizen in all sections of our country.

Those of us who have experienced the bitter humiliation of jim crow travel, who have had to get up at the Mason and Dixon line and transfer our belongings to a dirty little baggage car behind a locomotive, who have been forced to give our bus seat to a degenerate, hate-ridden, red-neck because he was white — we are grateful for this victory. We are grateful to the NAACP for pressing the fight and to the members of the Supreme Court who voted for democracy.

No white man, not even the most liberal, will ever really understand how deep are the roots of hatred and resentment which are engendered by jim crowism. In knocking at the foundation of the vicious segregation system, the Supreme Court is not merely doing its democratic duty, but it is easing tensions which can make for endless trouble and widespread violence. As long as segregation is countenanced by the Federal government, the white supremacists will defend it and Negroes will fight it. By outlawing segregation, the Federal government can promote domestic peace as well as strengthen our democratic system.

In the last few years the Supreme Court has indicated its disposition to uphold the citizenship rights of Negroes. The majority of the justices showed in their ruling on the Democratic white primary, and now on jim crow bus travel, that they can "understand" as well as read the Constitution of this country. While a great many members of Congress and other branches of the government can read a surprising number do not seem to be able

Washington Calling

Should Jackson-Black Resign For Court's Good?

WASHINGTON.—With the summer recess the Supreme Court quarrel will be in abeyance, but the long summer vacation will not heal a feud that in its current phase has torn the veil of illusion from the venerable institution.

A little background helps to explain the extraordinary bitterness that pervades the conference room of the court. About a year after Justice Hugo Black was appointed to the court I unintentionally contributed toward fanning that bitterness. It came about in this way.

Over a period of a number of months I had long conversations with the late Chief Justice Harlan F. Stone. He confided his deep concern over the type of appointments which President Roosevelt was making to the court. What disturbed him, and Black was a case in point, was whether the new men would have the lawyer-like qualities to serve in such high judicial office; or whether they would merely express their prejudices and predilections in legal language as the old "conservative" members of the court had done.

Justice Black Embittered

It is important to remember the status of the court at this time. The older justices, who had voted against New Deal laws over the vigorous dissents of Stone and Brandeis, were retiring or dying. Obviously President Roosevelt would shape a brand new court.

On the basis of my talks with Stone, I wrote a magazine article in which I suggested that some of Black's colleagues were unhappy because of what seemed to be his lack of craftsmanship in the law. Partly because of the malice of one individual who had a special interest in promoting the feud, Stone was accused of having a personal antagonism toward Black. Black had already gone through a searing blast of publicity as a result of the disclosure that he had at one time been a member of the Ku Klux Klan. He was harried by reporters and his privacy invaded in a way calculated to embitter him. Then my magazine article was made the basis of what seemed to be a new and deliberately planned attack on him personally.

One consequence was that he worked harder than perhaps any justice in the history of the court. He was determined to vindicate himself and to justify in the law his liberal opinions. By the force of his mind and personality, he soon enlisted Justices Murphy and Douglas in his camp. He was frequently joined by Justice Rutledge and occasionally by Justice Reed.

When Jackson came to the court, he was attracted by temperament and the bent of his legal thinking to Stone. They became fast friends. Stone's views on strict construction of the Constitution became Jackson's views.

Much Personal Venom

In recent years the bitterness has taken on, even in judicial conference, a tone of personal venom. One incident that fed it was the dinner given in Black's honor two years ago by a group representing Labor and left wing politics. This was in a sense a vindication dinner for the man who had been so maligned.

All the members of the court were invited. Jackson declined and Stone, then Chief Justice, did not attend. At the dinner, Black was eulogized by a number of speakers, including the legal representatives of several large labor organizations.

At least two of these speakers appeared in court to argue cases in the next few days. Jackson felt that this was grossly improper. In discussing it with friends he put it this way:

"What if in the old days of the court, when the conservative justices were under fire, one of the big business associations had given a dinner in honor of one of the conservative justices with appropriate eulogies from a corporation lawyer. Then the speaker making the eulogy would appear in court to argue a case the following day. Why every liberal in the country would have screamed his head off over it."

Tragic Years For Black

Black's record, from the first moment of his appointment, has been a tragic one. Those close to Roosevelt say that the late President never forgave Black for not having told him of the Klan connection. Hugo Black was a valuable senator. Particularly in his conduct of certain investigations, he showed himself a fearless and resourceful prosecutor. Both in the uti and the Ship Lobby investigation, he more than anyone has done since to the connection between big business and pressure politics.

The fact of a man's elevation to the Supreme Court does not mean that he thereby automatically sheds his prejudices. But Black, by virtue of his intense partisanship, seems less fitted than most men to hold high judicial office. Perhaps the only solution is for both Jackson and Black to resign. Then the unhappy effects of this feud might be erased. Under the administration of Fred Vinson, the new Chief Justice, the court might again achieve working harmony and repair the damage done in loss of public esteem.